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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

SAN FRANCISCO AIDS FOUNDATION;
et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
 as President of the United States; *et al.,*

Defendants.

Case No. 4:25-cv-01824-JST

**PLAINTIFFS' REPLY IN SUPPORT OF
 MOTION FOR PRELIMINARY
 INJUNCTION**

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PRELIMINARY STATEMENT

Plaintiffs challenge three Executive Orders that violate their constitutional rights to free speech, due process, and equal protection, and that disregard fundamental principles of separation of powers. Defendants have already enforced the Orders against Plaintiffs, not only by terminating their grant funding based on Plaintiffs' speech that the Government does not like but also by insisting Plaintiffs exclude a protected class of people—transgender persons—from programs intended to benefit them. Defendants argue that the President may issue and direct the Agency Defendants to enforce such unlawful orders with impunity and that Plaintiffs' only recourse is to wait until the Agency Defendants take *additional* steps to implement the President's facially discriminatory and illegal directives. Defendants' procedural gaslighting turns preliminary injunction law on its head. Defendants are already implementing the Orders to cancel Plaintiffs' funding because Plaintiffs espouse views the Administration opposes. *See infra*, Section I.A. Defendants have sent Plaintiffs and partner organizations clear and specific threats that the government will continue taking adverse action because of the Orders—including action punishing them for purely private speech. Because Defendants are inflicting irreversible financial and constitutional injuries now, the Court has jurisdiction to enjoin further irreparable harm.

Plaintiffs are likely to prevail on the merits of their claims. First, the Orders improperly restrict free speech. Defendants claim the Orders merely reflect the President's "policy priorities" for government-funded speech. Opp'n Br. 4 (Dkt. 61). But the Orders target more than government "patron[age]." *Id.* at 18. The record shows Plaintiffs' funding was or will be terminated and their speech censored because their grants are "equity-related;" their organizations "promote" so-called "gender ideology" by acknowledging the existence of transgender people; or they provide health and social services in an equitable manner, often pursuant to statutory requirements. The record thus shows that the Administration has targeted Plaintiffs for enforcement of the Orders because it disapproves of their speech and the Congressionally authorized programs Plaintiffs implement. Briefly, the Administration pejoratively deems as "illegal" speech it dislikes.

Second, Defendants fail to explain how the Orders meet due process requirements. Instead,

Defendants boldly claim that due process is not required so vagueness is permissible. Defendants also say that key provisions of the Orders “target only illegal conduct.” *Id.* at 28. But Defendants prove Plaintiffs’ vagueness point by failing to elucidate the line between “illegal” DEI and DEI that is permissible. Defendants’ own actions enforcing the Orders suggest they interpret them to mean that all efforts supporting DEIA are unlawful. For example, the Attorney General, *a Defendant in this action*, stated that the Orders “mak[e] clear that policies relating to” DEI and DEIA “violate the text and spirit of our longstanding Federal civil-rights laws.”¹

Third, the Gender Order violates the constitutional guarantee to equal protection because it is premised on an unprecedented degree of facially discriminatory animus against transgender people and any organization that acknowledges their identities or advocates for their rights.

Finally, the Orders usurp spending power expressly delegated to Congress. In fact, the Orders directly conflict with specific statutes, including statutes mandating or encouraging the exact types of activities (like the equitable inclusion of all people, including transgender people) the Orders now deem “illegal” or conditioning federal funding on non-discrimination.

In sum, the Executive Orders have caused and are continuing to cause harm to Plaintiffs’ constitutional rights and funding. Defendants flatly refuse to acknowledge these harms and seek to evade fundamental constitutional boundaries that this Court should uphold.

THE EXECUTIVE ORDERS’ CHALLENGED PROVISIONS

Plaintiffs move this Court to declare that these specific provisions of the Executive Orders are unconstitutional, to enjoin their enforcement, and to order rescission of any funding terminations or other implementation of the Orders against Plaintiffs: Section 3(e) of the Gender Order (the “**Gender Termination Provision**”); Section 3(g) of the Gender Order (the “**Gender Promotion Provision**”); Section 4(d) of the Gender Order (the “**Intimate Spaces Provision**”); Section 2(b)(i) of the DEI-1 Order (the “**Equity Termination Provision**”); Section 2(b)(ii)(C) of the DEI-1 Order

¹ Off. of the Att’y Gen., DOJ, *Ending Illegal DEI and DEIA Discrimination and Preferences* (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388501/dl?inline> (attached to the Supplemental Declaration of Jose Abrigo (“Abrigo Supp. Decl.”) as **Ex. R-16**).

(the “**List Provision**”); Section 3(c)(ii) of the DEI-2 Order (the “**DEIA Principles Provision**”); Section 3(c)(iii) of the DEI-2 Order (the “**Diversity Termination Provision**”); Section 3(b)(iv)(A)-(B) of the DEI-2 Order (the “**Certification Provision**”); and Section 4(b) of the DEI-2 Order (the “**Enforcement Threat Provision**”). *See* Appendix A.

ARGUMENT

I. Plaintiffs Have Established Article III Jurisdiction.

Federal courts undisputedly are open to claims that the government is violating and threatening to violate constitutional rights or causing concrete financial injury. Plaintiffs properly seek injunctive relief here because Defendants are presently chilling and censoring their speech, cutting their funding, and sending them written threats of future cuts.

A. Plaintiffs Have Alleged, and Offered Evidence of, Concrete Injuries Caused by the Executive Orders and their Implementation.

Defendants begin their misplaced attack on Plaintiffs’ standing by “defeating” a phantom argument. Plaintiffs do *not* challenge the Executive Orders “as a unified whole.” Opp’n Br. 8. Instead, Plaintiffs challenge specific sections of the Executive Orders that have already injured, or threaten imminent injury to, Plaintiffs, their patients, and clients. *See infra*, 3-4; *see also* Compl. ¶¶ 65, 72, 82-84, 88, 92-94, 96-97, 99, 124-126, 237 (Dkt. 1). Defendants concede as much, stating, “Plaintiffs seemingly attempt to assert injury with respect to six provisions.” Opp’n Br. 9.

Defendants then argue that Plaintiffs’ injuries are “speculative.” *Id.* Defendants are wrong. Plaintiffs have alleged two primary forms of injury to themselves caused by the Orders’ challenged provisions—(i) chilled speech and (ii) the loss of funding appropriated by Congress, which impacts their operations—and have submitted un rebutted evidence these injuries have occurred or are imminent. Plaintiffs also allege the denial of equal protection to their patients and clients caused by the Gender Order and its implementation. *See infra*, Section II.C.

Loss of Federal Funding and Operational Harms. That Plaintiffs’ federal funding will be terminated pursuant to the Orders is not speculation; *it has already happened*. *See Robins v. Spokeo, Inc.*, 867 F.3d 1108, 1118 (9th Cir. 2017) (injury not speculative where “both the

challenged conduct and the attendant injury have already occurred”). Defendants HHS (through its component, NIH) and/or NEH have already terminated funding to San Francisco AIDS Foundation (“SFAF”), LA LGBT Center, and GLBT Historical Society in accordance with the Executive Orders’ mandates.² See Dkts. 56 ¶ 9 & Ex. A (Dkt. 56-1); 57 ¶¶ 14–16, 24 & Exs. C, E (Dkts. 57-3, 57-5); Dkt. 58 ¶¶ 9–10, 19 & Ex. C, E (Dkts. 58-3, 58-5); *see also* Appendix C. This loss of federal funding causes operational harm such as being unable to provide critical healthcare and social services and having to fire staff. In other words, the Orders and their implementation have “directly affected and interfered with [Plaintiffs’] core [mission-driven] activities,” sufficient to confer standing. *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024).

Chilled Speech. The injury to Plaintiffs’ protected speech independently establishes injury. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion) (loss of First Amendment freedoms constitutes injury). Indeed, Defendants do not dispute that a chilling effect on protected speech is an injury-in-fact sufficient for Article III standing. Opp’n Br. 10. Instead, Defendants claim that Plaintiffs’ fears that they will lose their funding and may be prosecuted under the False Claims Act (“FCA”) if they engage in speech recognizing the existence of transgender people and the importance of diversity, equity, inclusion, and accessibility are “objectively unreasonable.” *Id.*

These fears, however, are objectively reasonable because Defendants have already terminated funding based on Plaintiffs’ speech. See *infra* at 6-7. Additionally, LA LGBT Center has been told it must remove terms like “LGBT” (which is in the organization’s name), “queer,” “trans,” and “transgender” from its materials or else its grant from the Office of Family Violence

² This case, therefore, is distinguishable from *National Association of Diversity Officers in Higher Education v. Trump* (“*Diversity Officers*”), No. 25-1189 (4th Cir. Mar. 14, 2025) (Dkt. 29), a non-binding Fourth Circuit opinion upon which Defendants rely heavily. Although granting a stay of a nationwide preliminary injunction pending appeal, each member of the *Diversity Officers* panel made clear that their analysis would be different if, like here, the administration took specific actions to enforce the Orders. See *id.* at 4 n.1 (Diaz, C.J., concurring) (“I . . . reserve judgment on how the administration enforces these executive orders, which may well implicate cognizable First and Fifth Amendment concerns.”); *id.* at 7 (Harris, J., concurring) (“But my vote to grant the stay comes with a caveat” that agency enforcement actions “may well raise serious First Amendment and Due Process concerns”); *id.* at 9 (Rushing, J., concurring) (expressing view that claims were not justiciable where “this case does not challenge any particular agency action implementing the Executive Orders”).

and Prevention Services (“OFVPS”), a component of HHS, will be terminated. Dkt. 57 ¶¶ 28–32. Likewise, FORGE was informed by a partner organization that Defendant DOJ program officers required censorship of certain language in grant funded work. Dkt. 47-3 ¶ 10. Considering Defendants’ treatment of similarly situated organizations, public pronouncements regarding imminent enforcement, and direct threats of terminations, those Plaintiffs who have not yet had their funding terminated are objectively reasonable in fearing termination of their funding if they engage in speech that the Administration dislikes. *See Chicago Women in Trades v. Trump (“CWIT”)*, No. 25 C 2005 (N.D. Ill. Apr. 14, 2025) (Dkt. 68), at 23–26. *See also infra*, at 12–13.

Further, Plaintiffs have standing to challenge, pre-enforcement, the Orders’ restrictions on speech because Plaintiffs have “demonstrate[ed] a realistic danger of sustaining a direct injury as a result of the [Executive Orders’] operation or enforcement.” *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979). Indeed, “when the threatened enforcement effort implicates First Amendment rights, the inquiry tilts dramatically toward a finding of standing.” *LSO, Ltd. v. Stroh*, 205 F.3d 1146, 1155 (9th Cir. 2000). Here, enforcement is imminent where Defendants have announced they will apply the Orders vigorously and have sent termination notices or threats.

B. Plaintiffs Have Standing to Challenge the Grant Termination Provisions.

Defendants concede that Plaintiffs have “alleged Article III standing with respect to disrupted federal grants or contracts,” Opp’n Br. 11, but nonetheless claim that Plaintiffs’ lack standing because the terminations are not “fairly . . . trace[able] to the [Executive Orders].” *Id.* (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-615 (1992)). Defendants’ argument relies on the false claim that notices Plaintiffs received did not cite the Executive Orders. *Id.* But multiple Plaintiffs received notices from multiple Defendants that *did* expressly cite the DEI-2 Order or the Gender Order as the only basis for terminating grants. These notices are quoted in the Complaint (Compl. ¶¶ 110–113), were quoted again in Plaintiffs’ declarations, and were attached in full as exhibits;³ Defendants simply chose to ignore this evidence.

³ Dkts. 47-7 ¶ 35 & Ex. A; 47-8 ¶¶ 18, 20 & Exs. A–B; 47-10 ¶ 8 & Exs. A–D.

1 Prior to the filing of this case, Prisma Community and San Francisco Community Health
 2 Center (“SFCHC”) received notices from the CDC, a component of HHS, threatening termination
 3 of federal funding awards explicitly based on the DEI-2 Order. *See* Dkts. 47-8 Ex. A; 47-10 Exs.
 4 A–B. SFCHC also received a notice from HHS threatening termination of an award for HIV
 5 prevention program explicitly based on the Gender Order. *See* Dkt. 47-10 ¶ 8(c) & Ex. C.⁴
 6 Similarly, NY LGBT Center received a notice from HRSA, a component of HHS, threatening
 7 termination of grant funds pursuant to the DEI-2 Order and the Gender Order. *See* Dkt. 47-7 ¶ 35.

8 Instead of addressing these termination notices that are fatal to their traceability argument,
 9 Defendants only address the most recent termination notices Plaintiffs GLBT Historical Society,
 10 SFAF, and LA LGBT Center received after this lawsuit was filed. Opp’n Br. 11-12. Although
 11 those termination notices do not expressly reference the Executive Orders (seemingly evolving in
 12 response to court proceedings), that is irrelevant; all Plaintiffs must do is show that the Orders are
 13 being enforced against Plaintiffs or that enforcement is imminent, which is established by the
 14 earlier notices received by Prisma Community Care, SFCHC, and NY LGBT Center.

15 Regardless, the termination notices Defendants selectively choose to focus on make clear
 16 that their purpose is to implement the Executive Orders. For example, in March 2025, LA LGBT
 17 Center and SFAF both received termination notices from NIH, a component of HHS, terminating
 18 grants intended (i) to identify and address factors contributing to racial inequities in HIV care
 19 under which LA LGBT Center is a subawardee; (ii) to investigate health disparities and outcomes
 20 among transgender and gender-diverse populations; and (iii) to study the effectiveness of a post-
 21 exposure prophylaxis to prevent bacterial sexually transmitted infections in a target population of
 22 transgender women and men who have sex with men. Dkts. 57 ¶¶ 5–17, 20–26; 58 ¶¶ 5–11; *see*
 23 *also* Appendix C. According to the notices, the grants were terminated because they “no longer
 24 effectuate agency priorities.” Dkts. 57-3, 57-5, 58-3. But the termination notices do not identify
 25 any specific agency priorities and instead simply mirror the language of the DEI-1 and DEI-2

26
 27 ⁴ That termination was eventually rescinded against HHS’s will pursuant to a temporary restraining
 order issued on January 31, 2025, by a federal district court in Rhode Island. Dkt. 47-10 Ex. D.

1 Orders and the Gender Order, claiming that:

- 2 • “Research programs based primarily on artificial and non-scientific categories, including
3 amorphous equity objectives, are antithetical to the scientific inquiry, do nothing to expand
4 our knowledge of living systems, provide low returns on investment, and ultimately do not
5 enhance health, lengthen life, or reduce illness,” Dkt. 57-5; or
- 6 • “Research programs based on gender identity are often unscientific, have little identifiable
7 return on investment, and do nothing to enhance the health of many Americans. Many
8 such studies ignore, rather than seriously examine, biological realities.” Dkts. 57-3, 58-3.

9 **C. The Tucker Act Is Inapplicable and This Court Has Jurisdiction.**

10 Plaintiffs’ claims are constitutional, not contractual in nature. They are not founded upon
11 any express or implied contract with the United States, nor do Plaintiffs seek money damages for
12 breach of contract. Rather, Plaintiffs seek only declaratory and injunctive relief. These facts are
13 fatal to Defendants’ argument that jurisdiction lies exclusively in the Court of Federal Claims.
14 Opp’n Br. 12. In fact, such argument was already rejected in *CWIT*. No. 25 C 2005, Dkt. 29 at 17–
15 22; *see also Woonasquatucket River v. Dep’t of Agric.*, No. 1:2025-cv-00097 (D.R.I. Apr. 15,
16 2025) (Dkt. 45), at 28–35.

17 An action does not fall within the exclusive jurisdiction of the Court of Federal Claims
18 simply because it implicates a contract. *See Megapulse, Inc. v. Lewis*, 672 F.2d 959, 968 (D.C. Cir.
19 1982) (“[T]he mere fact that a court may rule on a contract issue does not . . . automatically
20 transform an action . . . into one on the contract and deprive the court of jurisdiction it might
21 otherwise have.”). Rather, an action invokes the Tucker Act’s jurisdiction only when the claim is
22 “in substance” a contract claim. *Martin v. United States*, 649 F.2d 701, 704–05 (9th Cir. 1981);
23 *see also Crowley Gov’t Servs., Inc. v. Gen. Servs. Admin.*, 38 F.4th 1099, 1110 (D.C. Cir. 2022)
24 (Tucker Act did not apply to statutory claims implicating contract rights).

25 That Plaintiffs seek injunctive relief is likewise fatal to Defendants’ Tucker Act argument
26 as the Court of Federal Claims “has no power to grant equitable relief.” *Bowen v. Massachusetts*,
27 487 U.S. 879, 905 (1988). Indeed, injury to Plaintiffs’ free speech rights can *only* be remedied by
28 injunctive or other equitable relief. *Elrod*, 427 U.S. at 373 (holding “[money] damages are . . . not
an adequate remedy” for the loss of First Amendment rights). Defendants attempt to avoid this by

reframing Plaintiffs’ request for an injunction into a claim for money damages because Defendants may be required to continue to fund Plaintiffs’ grants. Opp’n Br. 13. This argument is misplaced, however, because “the fact that a judicial remedy may require one party to pay money to another is not a sufficient reason to characterize the relief as ‘money damages.’” *Bowen*, 487 U.S. at 893; *see also Doe v. United States*, 372 F.3d 1308, 1313–14 (Fed. Cir. 2004).

Department of Education v. California, 604 U.S. ---, 145 S. Ct. 966 (2025), is inapposite. Plaintiffs there were challenging grant terminations under the Administrative Procedures Act, a claim which Plaintiffs do not bring. Moreover, the plaintiffs in *California* did not assert any claims regarding the infringement of a constitutional right or a chilling effect on free speech. Nothing in the Tucker Act divests this Court of jurisdiction to remedy constitutional harms.

II. Plaintiffs Are Likely to Succeed on the Merits of Their Claims.

A. The Executive Orders Violate the First Amendment.

The Orders’ challenged provisions violate the First Amendment and justify the need for immediate preliminary relief. The Enforcement Threat Provision and the Certification Provision both directly restrict speech based on viewpoint and content. Also, these two provisions, as well as five others—the Diversity Termination, Equity Termination, Gender Termination, Gender Promotion, and List Provisions—have the unlawful purpose and effect of chilling disfavored speech. “[G]overnmental regulations that fall short of a direct prohibition against the exercise of First Amendment rights” violate the First Amendment if they have a “deterrent, or ‘chilling,’ effect” on speech. *Laird v. Tatum*, 408 U.S. 1, 11 (1972); *see also Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 190 (2024) (“a government official cannot do indirectly what she is barred from doing directly” to “punish or suppress disfavored speech”).

By their plain terms, the Orders are designed to silence and chill private speech that supports viewpoints the Administration dislikes. The DEI-2 Order’s text directs officials to work to end DEI in the “private sector.” DEI-2 Order § 4. The Gender Order further directs Defendants to “assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.” Gender Order § 3(g). By “direct[ing] agency heads to review all grant programs to

determine which grants may be conditioned on the recipient’s certification that federal funds will not be used to promote concepts” the Administration dislikes, the Orders “[c]ondition[] federal grants in [a] manner [that] clearly ... constitute[s] a content-based restriction on protected speech.” *Santa Cruz Lesbian & Gay Cmty. Ctr. v. Trump*, 508 F. Supp. 3d 521, 542 (N.D. Cal. 2020).

Moreover, the Court is not limited to reviewing “the Executive Order’s text,” as encouraged by Defendants. Opp’n Br. 25. Rather, the Court may review Defendants’ own words and actions regarding how they interpret and enforce the Executive Orders. Defendants have made abundantly clear that they view all “DEI” programs as “illegal,” and their intent is to end all DEI efforts, and consequently chill speech, in both the public and private sectors.

The President’s own statements reveal the Administration’s unconstitutional plan to attack private speech. Before issuing the Orders, the President committed not only to “end all of the Marxist diversity, equity, and inclusion policies across the entire federal government,” but also to “ban these unlawful policies from . . . the private sector as well.” Abrigo Supp Decl. **Ex. R-13**. During his address to Congress, the President announced: “We’ve ended the tyranny of so-called Diversity, Equity, and Inclusion policies all across the entire federal government and indeed the private sector and our military.” *Id.* **Ex. R-1**. A particularly egregious example is HUD’s invoking the Executive Orders to cancel grants based on “key words” in an organization’s “website or LinkedIn Profile”—that is, their purely private speech. *Id.* **Ex. R-11**. Another is Defendant HHS’s issuance of a Secretarial Directive to “avoid[] the expenditure of federal funds on programs, or *with contractors or vendors, that promote or take part in diversity, equity, and inclusion (‘DEI’) initiatives.*” *Id.* **Ex. R-2** (emphasis added). Another is the instruction to LA LGBT Center to remove terms like “LGBT,” (which is in the organization’s name), “queer,” “trans,” and “transgender” as a condition for its OFVPS grant, Dkt. 57 ¶ 31, and the instruction to FORGE to not use terms like “equal opportunity,” “pronoun,” “intersectionality,” “accessibility,” and “historical trauma,” Dkt. 47-3 ¶ 10.

Through the Certification Provision, the Administration targets Plaintiffs’ speech that is beyond the contours of any federal grants they receive. Thus, the Orders and Defendants’ actions

1 implementing them impose penalties for Plaintiffs’ privately held viewpoints. When government
 2 takes aim at private expression of particular ideas or viewpoints, the First Amendment provides
 3 protection. *See Rosenberger v. Rector & Visitors of U. Va.*, 515 U.S. 819, 828 (1995) (“[T]he
 4 government may not regulate speech based on its substantive content or the message it conveys.”).

5 For this reason, the district court in *CWIT* recently preliminarily enjoined sections of the
 6 DEI-1 and DEI-2 Orders, finding that plaintiffs were likely to succeed on the merits of their First
 7 Amendment claims. *See CWIT*, No. 25 C 2005, Dkt. 29 at 26. The court stated: “Although the
 8 government may use conditions to ‘define the federal program,’ it may not ‘reach outside’ the
 9 program to influence speech.” *Id.* at 24 (quoting *Agency for Int’l Dev. v. Alliance for Open Soc’y*
 10 *Int’l, Inc.* (“*AID*”), 570 U.S. 205 (2013)).⁵

11 Defendants offer a scattershot response to Plaintiffs’ First Amendment challenge but fail to
 12 confront how the provisions—individually and collectively—chill speech opposed by the
 13 Administration. *First*, Defendants defend the Certification Provision on the ground that it “merely
 14 requires Plaintiffs to certify that they do not operate any DEI programs that ‘violate any applicable
 15 Federal anti-discrimination laws.’” Opp’n Br. 23. As one court recently put it, the problem with
 16 this argument is that the meaning of the Certification Provision “is left entirely to [Plaintiffs’]
 17 imagination.” *CWIT*, No. 25 C 2005, Dkt. 29 at 25. The Executive Orders do not define the term
 18 “DEI” itself or refer to any source indicating that term’s meaning as used in the Order—let alone
 19 what might make any given “DEI” program violate Federal antidiscrimination laws. Despite
 20 arguing that the Certification Provision only implicates “illegal” DEI programs, the government
 21 has studiously declined to shed any light on what this means. If anything, Defendant HHS has
 22 made clear that it considers *all* DEI programs and initiatives to be unlawful, demanding that
 23

24 ⁵ As *CWIT* noted, “[t]he government conceded at oral argument that the Certification Provision
 25 attempts to regulate grantees’ speech outside of their federally-funded programs.” *CWIT*, No. 25
 26 C 2005 at 24 (citing TRO transcript where the government stated: “[W]e’re not arguing that the
 27 Certification Provision doesn’t apply outside of the grants or contracts. It does. It plainly does.”).
 28 “The provision on its face makes clear that a counterparty must certify that it does not operate any
 program that promotes DEI, irrespective of whether the program is federally funded.” *Id.*; *see also*
 Abrigo Supp. Decl. **Ex. R-12**.

1 Harvard University “immediately shutter *all diversity, equity, and inclusion (DEI) programs,*
 2 *offices, committees, positions, and initiatives, under whatever name, and stop all DEI-based*
 3 *policies.*” Abrigo Supp. Decl. **Ex. R-10**. Regardless, the Executive Orders are not so limited by
 4 either their language or their enforcement; the plain text of the Orders, along with Defendants’
 5 actions since the Orders were issued, make clear that Defendants seek to suppress all efforts
 6 promoting DEI, regardless of whether such efforts are considered “legal” or “illegal.” *See supra*
 7 at 9, *infra* at 15–16.

8 Moreover, the Certification Provision’s application to activities that are not federally
 9 funded puts Plaintiffs in the impossible position of either revising all programmatic activity so that
 10 none of it “promote[s] DEI” (whatever that means), declining to make a certification and thus lose
 11 their grants, or risk making a certification that will be deemed false and thus subject them to
 12 investigation or liability under the FCA. Even assuming that the Certification Provision is limited
 13 to promoting whatever the government now contends is “illegal DEI,” it is bedrock First
 14 Amendment canon that advocating for violation of the law cannot be proscribed unless it rises to
 15 incitement. *See Virginia v. Black*, 538 U.S. 343, 359 (2003) (quoting *Brandenburg v. Ohio*, 395
 16 U.S. 444, 447 (1969)) (“[T]he constitutional guarantees of free speech and free press do not permit
 17 a State to forbid or proscribe advocacy . . . of law violation except where such advocacy is directed
 18 to inciting or producing imminent lawless action and is likely to incite or produce such action.”).⁶

19 *Second*, Defendants defend the Certification Provision in a way that does not actually
 20 address Plaintiffs’ claim that the provision imposes an unconstitutional condition in violation of
 21 free speech under *AID*. The Certification Provision is just like the unconstitutional condition in
 22 *AID* because it not only requires contractors and grantees to certify that they will not engage in
 23 prohibited speech as part of their government-funded work; it requires them to certify that they
 24 will not engage in such speech *at all* as a condition for federal funding. Defendants insist that *AID*

25 ⁶ Plaintiffs previously noted that Defendants place undue weight on non-binding concurrences in
 26 the stay decision in *Diversity Officers*. Compare Opp’n Br. 25, with footnote 2, *supra*. Nor did
 27 *Diversity Officers* address the Gender Order. Coupled with Defendants’ own words and
 28 enforcement actions, this case is distinguishable from *Diversity Officers*.

1 is distinguishable because the Certification Provision “simply restricts the recipient’s ability to
2 engage in illegal discrimination while also securing federal funding—discrimination that would
3 be illegal even without federal funding.” Opp’n Br. 25. Again, although the provision references
4 “Federal anti-discrimination laws,” DEI-2 Order § 3(b)(iv)(B), this reference is meaningless where
5 the Orders and Defendants’ actions make clear that, in practice, the Administration seeks to
6 dismantle all DEI programs. *See supra* at 9, *infra* at 15–16.

7 Defendants rely on *Cutter v. Wilkinson*, 423 F.3d 579 (6th Cir. 2005), to argue that requiring
8 compliance with the law “does not amount to an unconstitutional ‘condition.’” Opp’n Br. 26. But
9 Plaintiffs are not seeking government funds to support unlawful activities, as was the issue in
10 *Cutter*. Plaintiffs do not engage in unlawful discrimination of any kind. Rather, Defendants have
11 themselves made clear that they view all speech supporting DEI and acknowledging the reality
12 that transgender people exist—including constitutionally protected speech that does not
13 discriminate—as unlawful. Defendants cannot block off a whole arena of protected speech by
14 incorrectly labeling it discriminatory or illegal.

15 *Third*, Defendants do not seriously challenge Plaintiffs’ argument that the Orders, taken as
16 a whole, chill speech. “It is established that ‘governmental action may be subject to constitutional
17 challenge even though it has only an indirect effect on the exercise of First Amendment rights.’”
18 *Laird*, 408 U.S. at 12–13. Thus, even if individual terms, taken in isolation, do not directly restrict
19 speech outside of government-funded programs, the challenged provisions’ overall purpose and
20 chilling effect—revealed by Defendants’ own words—do exactly that. “The First Amendment
21 prohibits government officials from relying on the ‘threat of invoking legal sanctions and other
22 means of coercion . . . to achieve the suppression’ of disfavored speech.” *Vullo*, 602 U.S. at 189
23 (quoting *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67 (1963)).

24 *Fourth*, in disputing the chilling effects of the Certification Provision, Defendants reject
25 any allegation of self-censorship as “objectively unreasonable” and “based on a misreading of the
26 Certification Provision, which only requires recipients to certify that any DEI programs they
27 operate do not violate anti-discrimination law—not that they do not operate any DEI programs at
28

all.” Opp’n Br. 10. These are hollow assurances in light of the Orders’ text and Defendants’ actions, which demonstrate radical departures from longstanding interpretations of antidiscrimination law.

In addition, Defendants argue that any chill created by the threat of FCA liability is dispelled by the fact that an intent-based defense remains available to Plaintiffs. Opp’n Br. 24–25. Organizations may well be able to assert defenses grounded in scienter to the extent the government brings an enforcement action or litigation under the FCA. The availability of these defenses does not ameliorate the threat of an investigation or potential liability under the statute and the chilling effects that flow from that threat. Plaintiffs still must guess what Defendants believe federal antidiscrimination laws mean in the context of well-established, widely accepted DEI programs. This unconstitutional overbreadth has a chilling effect on speech.

Fifth, Defendants’ rebuttal as to the Enforcement Threat Provision entirely misses the point. Opp’n Br. 26-28. This provision directs the Attorney General to create a list of “potential civil compliance investigations” for organizations that engage in “illegal discrimination and preferences, including DEI.” DEI-2 Order § 4(b). Requiring government officials to produce lists of private citizens expressing disfavored views is precisely the type of government action that the Supreme Court has recognized as raising significant constitutional concerns.

In *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123 (1951), the Court considered a government list-making operation that closely resembles the ones ordered here. The executive order at issue in *McGrath* directed DOJ to collect and disseminate the names of private organizations that it determined were “totalitarian, fascist, communist,” “subversive,” or promoted what the administration at the time deemed as antigovernment views. *Id.* at 125. Entities that were placed on the list filed suit asserting constitutional violations. *Id.* at 132–33. Although the plurality in *McGrath* decided a narrower question—ruling that plaintiffs adequately stated a claim, *id.* at 142—Justice Black addressed the chilling effects of “governmental blacklists” in a concurring opinion that speaks directly to the Executive Orders here. *Id.* at 142–44 (Black, J., concurring). Justice Black wrote that the government’s list-making “effectively punishe[d] many organizations and their members merely because of their political beliefs and utterances,” which “smacks of a

1 most evil type of censorship” and “cannot be reconciled with the First Amendment.” *Id.* at 143.
2 Justice Black’s concerns resonate today where the Administration’s actions bear troubling
3 similarities to government action that has long been recognized as unconstitutional.

4 *Sixth*, Defendants contend that Plaintiffs’ challenges interfere with the executive branch’s
5 “enforcement priorities based on Plaintiffs’ fear that the Executive might not stick to its word when
6 it says it will only pursue illegal actions,” arguing that “Plaintiffs’ theory would kneecap the
7 Executive’s enforcement authority.” Opp’n Br. 28. Defendants do not cite any authority for the
8 notion that such vague allusions to “enforcement authority” or “enforcement priorities” can justify
9 their encroachment on free speech. Nor can they. Allowing Defendants to erode First Amendment
10 guarantees through shallow appeals to “enforcement priorities” would only invite further abuses.

11 *Finally*, Defendants do not explain or address the fact that the Gender Order restricts
12 Plaintiffs’ speech as it pertains to their acknowledgement of transgender people’s existence and
13 identities. By prohibiting speech that recognizes transgender people’s existence or identities
14 (defined as “gender ideology” in the Gender Order) in the operation of any federally funded
15 programs, regardless of the program’s purpose, the Gender Order specifically targets speech that
16 the Administration disfavors and seeks to impose a discriminatory viewpoint upon Plaintiffs.

17 In short, the Orders are sweeping attempts by the government to control and chill private
18 speech. This our Constitution forbids: under the First Amendment, “[a]uthority . . . is to be
19 controlled by public opinion, not public opinion by authority.” *W. Va. State Bd. of Educ. v. Barnette*,
20 319 U.S. 624, 641 (1943).

21 **B. The Executive Orders Violate the Fifth Amendment’s Due Process Clause.**

22 Defendants do not seriously dispute that the Executive Orders are vague. Instead, they
23 argue that due process concerns do not apply to the Executive Orders which “only purport to direct
24 executive policy and actors.” Opp’n Br. 15. This is demonstrably false where Defendants have
25 already taken steps to terminate Plaintiffs’ funding based on the Orders’ unlawful directives.

26 Defendants erroneously characterize Plaintiffs’ claims as solely facial challenges. Opp’n
27 Br. 15. But Plaintiffs bring both facial and as-applied challenges to the Executive Orders and their

1 implementing agency actions. *See* Compl. ¶ 226 (Plaintiffs “challenge the Executive Orders and
2 any agency action seeking to implement the Executive Orders both facially and as applied to
3 them”); *see id.* ¶¶ 253, 267, 280, 304. In any event, to the extent that Defendants have not yet
4 enforced some of the provisions directly against some Plaintiffs such that the posture is still
5 arguably “pre-enforcement,” Plaintiffs’ claims also readily support a pre-enforcement facial
6 vagueness challenge. Defendants’ arguments to the contrary lack merit.

7 Defendants overstate the extent to which pre-enforcement facial vagueness challenges are
8 disfavored. Although the Supreme Court has foreclosed pre-enforcement facial vagueness
9 challenges for plaintiffs whose conduct is “clearly proscribed” by a vague law such that they
10 cannot claim lack of fair notice, *Holder v. Humanitarian Law Project*, 561 U.S. 1, 20 (2010), that
11 principle does not extend to pre-enforcement facial vagueness challenges premised on the
12 vagueness doctrine’s second consideration: the risk of arbitrary enforcement. *See F.C.C. v. Fox*
13 *Television Studios, Inc.*, 567 U.S. 239, 252–53 (2012) (assuming vagueness challenges remain
14 available when based on an enforcement-discretion theory). A pre-enforcement challenge is proper
15 here where Plaintiffs challenge the Orders both for lack of fair notice and for their potential for
16 arbitrary enforcement. *See Isaacson v. Mayes*, 84 F.4th 1089, 1098–99 (9th Cir. 2023) (rejecting
17 “district court’s suggestion that . . . vagueness challenges, cannot be reviewed before enforcement”
18 because the court must “decide whether the harm is sufficiently likely so that the litigant need not
19 wait until the harm occurs”); *Woodhull Freedom Found. v. United States*, 948 F.3d 363, 369 (D.C.
20 Cir. 2020); *Santa Cruz*, 508 F.Supp.3d at 543–45.

21 The only vague element of the Orders that Defendants engage with is the reference to
22 discriminatory DEI in the Certification Provisions. Defendants argue that these provisions are not
23 vague because they merely require Plaintiffs to comply with “existing” law. Opp’n Br. 10. But the
24 Certification Provisions do not exist in a vacuum. Nearly everything else in the Orders, along with
25 Defendants’ statements and actions, says the opposite: that the Administration views *all* DEI as
26 illegal. In places, the Orders categorically refer to “illegal DEI,” without distinguishing between
27 legal DEI and a subset that is supposedly unlawful; the U.S. Attorney General issued a
28

1 memorandum interpreting the Orders as “making clear that policies relating to ‘diversity, equity,
2 and inclusion’ (‘DEI’) and ‘diversity, equity, inclusion, and accessibility’ (‘DEIA’) ‘violate the
3 text and spirit of our longstanding Federal civil-rights laws’ and ‘undermine our national unity,’”
4 Abrigo Supp. Decl. **Ex. R-16**; and in implementing the Orders, Defendants have canceled funding
5 for programs that are even tangentially related to DEIA, without any indication that they have
6 deemed those programs illegal *See, e.g., Id. Exs. R-4, R-7* (noting research grants terminations for
7 terms like “race,” “ethnicity,” “BIPOC,” “underrepresented,” “vulnerable population,” among
8 others), **R-8, R-9, R-11**.

9 That is why the references to discriminatory DEI in the Certification and Enforcement
10 Threat Provisions are vague. An ordinary person has no way of knowing whether their expression
11 relating to DEI satisfies Defendants’ conception of “legal” DEI where Defendants refuse to explain
12 the distinction between “legal” and “illegal” DEI. Instead, those affected have censored and will
13 continue to censor their speech to avoid any speech relating to DEI and “restrict[] their conduct to
14 that which is unquestionably safe.” *Baggett v. Bullitt*, 377 U.S. 360, 368 (1964). That violates due
15 process and inhibits free speech. *See, e.g., id.* (invalidating for vagueness an oath requiring teachers
16 to forswear an “undefined variety” of behavior considered “subversive” to the government).

17 Defendants try to circumvent the requirement of due process by arguing that the Orders do
18 not implicate an interest that due process protects. This is not the law. In *Board of Regents of State*
19 *Colleges v. Roth*, the Supreme Court recognized that all manner of government benefits can
20 implicate due process. 408 U.S. 564, 576–77 (1972). Indeed, Plaintiffs may have a property interest
21 in their grants and contracts. *See, e.g., San Bernardino Physicians’ Servs. Med. Grp., Inc. v. San*
22 *Bernardino Cnty.*, 825 F.2d 1404, 1407–08 (9th Cir. 1987).

23 Due process also protects against the deprivation of liberty interests, which are implicated
24 here. For example, the D.C. Circuit has recognized that private entities have a protected liberty
25 interest in being free from government action that causes reputational harms, which can occur
26 when the government terminates work with a contractor or grantee. *See, e.g., Reeve Aleutian*
27 *Airways, Inc. v. United States*, 982 F.2d 594, 598 (D.C. Cir. 1993) (a government contractor has a

“liberty interest in avoiding the damage to its reputation and business caused by a stigmatizing suspension”). In addition, the Orders’ threats to place Plaintiffs on various lists implicate protected interests. *See, e.g., McGrath*, 341 U.S. at 143 (Black, J., concurring).

Failing that, Defendants argue that due process requirements do not apply to the Executive Orders because the Orders merely direct the Presidents’ subordinates, and “do not directly regulate primary conduct.” Opp’n Br. 25. Defendants offer no real support for their rule cabining the reach of due process in that way. The Due Process Clause itself is not so limited. Rather, “[t]he touchstone of due process is protection of the individual against arbitrary action of government,” *Meachum v. Fano*, 427 U.S. 215, 226 (1976) (citation omitted)—a principle that does not turn on the form of the enactment. There is no dispute due process applies beyond statutes. *See Fox Television Studios*, 567 U.S. at 253. And, when presidents have issued executive orders that affect protected interests in ways that confer standing, courts have had no trouble recognizing that such orders must comport with due process. *See, e.g., Humanitarian Law Project v. U.S. Treasury Dep’t*, 578 F.3d 1133, 1146 (9th Cir. 2009); *Santa Cruz*, 508 F.Supp.3d at 545. That is the case here.

C. The Gender Order Violates the Fifth Amendment’s Equal Protection Clause.

Notably, Defendants do not seek to defend the Gender Order and its implementation on the merits. That makes sense because the Gender Order and its implementation are premised on an unprecedented degree of animus that should shock the conscience of any person, let alone our justice system, and renders it unconstitutional. Indeed, one “cannot fathom discrimination more direct than the plain pronouncement of a policy resting on the premise that the group to which the policy is directed does not exist.” *PFLAG, Inc. v. Trump*, No. 25-337-BAH, 2025 WL 685124, at *23 (D. Md. Mar. 4, 2025). Instead, Defendants argue that Plaintiffs are unlikely to succeed on their equal protection claim because, according to Defendants, Plaintiffs (1) purportedly do not challenge discriminatory conduct against transgender people but rather merely “rhetoric,” and (2) fail sufficiently to assert third-party standing on behalf of their individual patients and patrons. Neither argument has merit.

First, Plaintiffs challenge the Gender Order’s directives and implementing agency actions

1 conditioning federal funding on the requirement that Plaintiffs repudiate the identities and very
 2 existence of their transgender patients and patrons, and deny services to them. *See* Dkt. 47 at 29.
 3 The Gender Order requires agencies to “ensure grant funds do not *promote gender ideology*” and
 4 “*to end the Federal funding of gender ideology*,” which it defines as the recognition that a person
 5 may have a gender identity that differs from their birth sex. Gender Order §§ 2(f), 3(e), (g)
 6 (emphasis added). At their core, the Gender Order and its implementing agency actions seek to
 7 prohibit transgender people from accessing federally funded healthcare and social services if such
 8 services are provided in a way that acknowledges and respects their identities. As a result,
 9 transgender people are prohibited from accessing federally funded healthcare and HIV services,
 10 emergency housing, domestic violence and sexual assault survivor services, or other services,⁷ or
 11 the benefits from scientific and health research because of their transgender status. *But see, e.g.,*
 12 Dkt. 47-5 ¶ 5 (“Respecting transgender people ... is central to the LA LGBT Center’s identity,
 13 advocacy, and mission, and a necessary part of every aspect of the services we provide.”).

14 For example, to effectively provide healthcare services and “avoid [] tragic outcomes” that
 15 “ultimately lead[] to increased morbidity and mortality,” “healthcare providers must recognize and
 16 acknowledge their patients’ diverse gender identities and develop care models that are gender
 17 affirming and trauma informed.” Dkt. 47-6 ¶¶ 8–9. Yet, NIH has cancelled hundreds of research
 18 grants that mention or relate to transgender people because, in light of the Gender Order’s animus-
 19 laden proclamation that being transgender is a “false claim,” Gender Order § 2(f), NIH has now
 20 baselessly determined that “[r]esearch programs based on gender identity are often unscientific ...
 21 and do nothing to enhance the health of many Americans ... [and] ignore ... biological realities.”
 22 Abrigo Supp. Decl. **Ex. R-5** at 6; *id.* **Exs. R-4, R-7, R-8, R-9**. But “[g]ender identity is real,”
 23 *Dekker v. Weida*, 679 F.Supp.3d 1271, 1278 (N.D. Fla. 2023), *appeal argued*, No. 23-12155 (11th
 24 Cir. Nov. 22, 2024), and no matter how much the Administration proclaims otherwise, so are

25
 26 ⁷ Plaintiffs provide emergency and transitional housing that is federally funded and respectful of
 27 transgender people’s identities. *See* Dkts. 47-1 ¶¶ 6, 8–9; 47-10 ¶¶ 12(e), 24. The Gender Order,
 however, limits Plaintiffs ability to provide housing services that are respectful of their transgender
 clients’ identities. *See* Gender Order §§ 4(c), (d).

transgender people. This Court, the Ninth Circuit, and the Supreme Court have so acknowledged.⁸

By choosing to turn its back on the health needs of transgender people, the government is endangering the health of countless transgender Americans, but also of every American. *See Whitman-Walker Clinic, Inc. v. U.S. Dep’t of Health & Hum. Servs.*, 485 F.Supp.3d 1, 60–61 (D.D.C. 2020); *see also* Dkts. 47-5 ¶ 13; 47-6 ¶ 18; 47-7 ¶ 34; 47-9 ¶¶ 31, 33, 40; 47-10 ¶¶ 13, 17, 25. And because of the Gender Order, Defendant HHS has taken concrete governmental actions to terminate funding *impacting Plaintiffs* for health research that benefits transgender people like Plaintiffs’ clients and patrons. *See* Dkts. 57 ¶¶ 20–27; 58 ¶¶ 5–13. As noted, LA LGBT Center has been informed that it must eliminate terms like “LGBT,” “queer,” “trans,” and “transgender” in relation to its \$2.25 Million OFVPS grant. Dkt. 57 ¶¶ 31–32.

The federal funding restrictions imposed by the Gender Order impact health services and research as well as social services, including those relating to domestic violence, which all are barred if the programs acknowledge the existence of transgender people because doing so in the operation of such programs is considered the “promotion of gender ideology.” In other words, the Gender Order and its implementation restrict *who receives funding* and *who can access federally funded services*, not merely what the services funded are.

Second, it is well established that health and social services providers can assert the equal protection rights of their patients and patrons. *See, e.g., Craig v. Boren*, 429 U.S. 190, 195 (1976); *Washington v. Trump*, 847 F.3d 1151, 1160 (9th Cir. 2017); *Washington v. Trump*, No. 2:25-cv-00244-LK, 2025 WL 659057, at *8 (W.D. Wash. Feb. 28, 2025); *Whitman-Walker Clinic*, 485 F.Supp.3d at 34–36 (“The health-provider Plaintiffs ... have standing to assert the equal-protection ... rights of third-party LGBTQ patients.”). Indeed, this Court has recognized Plaintiff LA LGBT Center’s ability to do so. *See City & Cnty. of San Francisco v. Azar*, 411 F.Supp.3d 1001, 1011 (N.D. Cal. 2019).

⁸ *See, e.g., Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020); *Farmer v. Brennan*, 511 U.S. 825 (1994); *Doe v. Horne*, 115 F.4th 1083 (9th Cir. 2024); *Karnoski v. Trump*, 926 F.3d 1180 (9th Cir. 2019); *Norsworthy v. Beard*, 87 F.Supp.3d 1164, 1187 (N.D. Cal. 2015).

“For a litigant to have standing to assert claims on a third party’s behalf, the litigant must have suffered an injury in fact; the litigant must have a close relation to the third party; and there must exist some hindrance to the third party’s ability to protect his or her own interests.” *Legacy Health Sys. v. Hathi*, No. 23-35511, 2024 WL 2843034, at *1 (9th Cir. June 5, 2024); *see also Powers v. Ohio*, 499 U.S. 400, 410–11 (1991). Defendants neither dispute that Plaintiffs suffer an injury-in-fact through the termination of funding for their services nor that chilled speech and viewpoint discrimination constitute injury in fact. Rather they argue that Plaintiffs must establish their own standing for the equal protection claim. Opp’n Br. 33–34. They got the test wrong.

The question is not whether Plaintiffs have their own equal protection claim⁹ but rather whether they have suffered an injury-in-fact sufficient to grant them *standing in the case*. Plaintiffs clearly do. *See supra* Section I.A–B. Because the funding restrictions apply directly to federal funding recipients, Plaintiffs are best positioned to litigate this case. The Supreme Court has explained that plaintiffs are “generally permitted ... to assert third-party rights in cases where the enforcement of the challenged restriction *against the litigant* would result indirectly in the violation of third parties’ rights.” *June Med. Servs. L.L.C. v. Russo*, 591 U.S. 299, 318 (2020) (cleaned up and emphasis added), *abrogated on other grounds by Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022). “In such cases, ... ‘the obvious claimant’ and ‘the least awkward challenger’ is the party upon whom the challenged statute imposes ‘legal duties and disabilities.’” *Id.* at 319 (quoting *Craig*, 429 U.S. at 196–97). The actual and threatened loss of funding under the Gender Order constitutes an injury-in-fact to Plaintiffs; they are parties upon whom the Order’s enforcement imposes duties and disabilities. Thus, the injury-in-fact requirement is easily met.

“For the [close relationship] requirement to be fulfilled, the relationship between the

⁹ Plaintiffs *do* suffer direct injury from the threat to deny them federal funding unless they exclude a protected class of people from their services in violation of the Constitution’s equal protection guarantee. It is axiomatic that the government may not contract with “private persons to accomplish what it is constitutionally forbidden to accomplish.” *Norwood v. Harrison*, 413 U.S. 455, 465 (1973). Thus, Plaintiffs have direct standing to challenge Defendants’ violation of equal protection *vis-à-vis* coercive unconstitutional conditions placed on them.

litigant and the third party may be such that the former is fully, or very nearly, as effective a proponent of the right as the latter.” *Whitman-Walker Clinic*, 485 F.Supp.3d at 35 (cleaned up). “Here, there can be no doubt that the health-provider Plaintiffs will be motivated, effective advocates for their LGBTQ patients.” *Id.* (cleaned up). “Doctors and their patients have a confidential relationship.” *City and Cnty. of San Francisco*, 411 F.Supp.3d at 1011; *see also Washington*, 2025 WL 659057, at *8. Defendants do not argue otherwise. The close relationship requirement is easily met here. *See* Dkts. 47-1 ¶ 11; 47-2 ¶ 24; 47-3 ¶ 3; 47-4 ¶¶ 7, 13, 21; 47-5 ¶¶ 5, 9, 20; 47-6 ¶¶ 18, 21; 47-7 ¶ 33; 47-8 ¶¶ 7-8; 47-9 ¶ 42; 47-10 ¶¶ 14–17.

Third, Defendants argue that Plaintiffs have failed to show “that their individual clients’ ability to protect their own interest has been sufficiently hindered.” Opp’n Br. 33–34 (cleaned up). Not so. “[D]ue to the sensitive nature of the subject matter, fear of retaliation from the federal government, and lack of capacity and/or financial resources, [] Plaintiffs’ patients [and clients] are hindered from protecting their own interests.” *Washington*, 2025 WL 659057, at *8. No one disputes that “transgender people have been the subject of a long history of discrimination that continues to this day.” *F.V. v. Barron*, 286 F.Supp.3d 1131, 1145 (D. Idaho 2018). And disclosing a person’s transgender status, particularly now, “exposes transgender individuals to a substantial risk of stigma, discrimination, intimidation, violence, and danger.” *Arroyo González v. Rosselló Nevares*, 305 F.Supp.3d 327, 333 (D.P.R. 2018). Indeed, it “chills speech and *restrains engagement in the democratic process in order for transgender[people] to protect themselves from the real possibility of harm and humiliation.*” *Id.* (emphasis added). Defendants point to a few cases where individual plaintiffs, *mostly under pseudonyms*, have sued over discrete aspects of the Gender Order. Opp’n Br. 34. None, however, involve the type of challenge brought here. Besides, this “prong ‘does not require an absolute bar from suit.’” *Whitman-Walker Clinic*, 485 F.Supp.3d at 36 (quoting *Pa. Psychiatric Soc’y v. Green Spring Health Servs., Inc.*, 280 F.3d 278, 290 (3d Cir. 2002)). “It is enough that patients’ fear of stigmatization operates as a powerful deterrent to bringing suit.” *Whitman-Walker Clinic*, 485 F.Supp.3d at 36. Plaintiffs have shown “some hindrance” to the ability of their patients, clients, and patrons to vindicate their rights. *See*,

e.g., Dkts. 47-1 ¶¶ 11, 14; 47-4 ¶ 11; 47-5 ¶¶ 13, 21; 47-6 ¶¶ 8, 18, 21; 47-7 ¶¶ 9, 17; 47-9 ¶¶ 19, 21; 47-10 ¶¶ 10, 14, 21–22. The provisions directly impacting Plaintiffs and their transgender patients, clients, and patrons should be enjoined.

D. The Orders Are Ultra Vires as They Violate the Separation of Powers.

The Orders improperly usurp Congress’s spending power by directing that grants or contracts authorized by Congress be cancelled based on conditions not set by Congress. Defendants’ rebuttal rests on the faulty premise that “Plaintiffs have brought a facial challenge.” Opp’n Br. 29. Plaintiffs allege both facial and as-applied challenges. *See supra*, at 15.

Defendants argue the Orders are beyond judicial review because “the Executive may in some instances, without seeking congressional approval, terminate grants, ‘to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities.’” Opp’n Br. 29 (quoting 2 C.F.R. § 200.340(a)(4)). Yet, Defendants point to no delegation of authority permitting them to condition federal funding on the promotion of DEIA or gender ideology. “Notably, the Supreme Court has struck down agencies’ attempts to extrapolate broad authority under narrow delegations of power.” *PFLAG*, 2025 WL 685124, at *16. “Where, as here, the plain text and stated purpose of the Executive Orders evince a clear intent to unlawfully restrict federal funding without congressional authorization, the mere inclusion of the phrase ‘consistent with applicable law’ cannot insulate these Executive Orders from review.” *Id.* at *18.

Moreover, “to the extent authorized by law” includes whether the Orders are lawful under the Constitution, which they are not. As the Executive Orders and Defendants own words make clear, Plaintiffs’ contracts and grants are being terminated because Plaintiffs engage in speech that the Administration does not like, including by operating DEI programs and respecting transgender peoples’ identities. This is not a lawful reason to terminate a grant award.

Defendants’ attempt to distinguish *City & County of San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018), is not persuasive. Defendants have taken the position that any organizations that operate “DEI” programs or that “promote” “gender ideology” will have their grant funding terminated. This is therefore exactly like the situation in *City & County of San Francisco*. As one

1 court has held, “[b]ecause . . . Sections 3(e) and (g) of the Gender Ideology EO purport to condition
2 congressionally appropriated funds in a manner that effectively rewrites the law, they usurp
3 Congress’s legislative role and thus amount to an end run around the separation of powers.”
4 *Washington*, 2025 WL 659057, at *12.

5 Defendants point to *Building & Construction Trades Department, AFL-CIO v. Allbaugh*,
6 295 F.3d 28 (D.C. Cir. 2002), because of the permitted-by-law qualifiers in the Executive Orders
7 (also known as a savings clause). Opp’n Br. 30. But the Ninth Circuit distinguished *Allbaugh* in
8 *City & County of San Francisco*, finding the savings clause “does not and cannot override [the
9 executive order’s] meaning.” *Id.* at 1240. The court further concluded that the government’s
10 argument would lead it into “an intellectual cul-de-sac,” as interpreting “consistent with the law”
11 as immunizing an executive order would make “judicial review . . . a meaningless exercise.” *Id.*;
12 *see also HIAS, Inc. v. Trump*, 985 F.3d 309, 325 (4th Cir. 2021) (agreeing that “[t]he President
13 cannot immunize his Order from scrutiny” by using a savings clause). This Court need not ignore
14 the ways in which the Executive Orders are being interpreted and enforced by Defendants just
15 because the Executive Orders include qualifying language. *See PFLAG*, 2025 WL 685124, at *18.

16 Next, Defendants attempt to distinguish *County of Santa Clara v. Trump*, 250 F. Supp. 3d
17 497 (N.D. Cal. 2017), on the basis that the Orders “merely reinforce[] preexisting legal
18 obligations.” Opp’n Br. 30. But the Administration’s still undisclosed reinterpretation of federal
19 antidiscrimination laws is a radical departure from how those statutes were interpreted in the past,
20 and in any event, the Orders target much more than unlawful conduct. *See supra* Section I.A.

21 Finally, as noted in Plaintiffs’ Motion (pp. 24–27) and Appendix B, the Orders conflict
22 with statutes that authorize funding to support Plaintiffs’ work or condition Plaintiffs’ federal
23 funding on not discriminating based on sex. *See PFLAG*, 2025 WL 685124, at *22–24 (holding
24 Section 3(g) of the Gender Order violates Section 1557 of the ACA and Section 1908 of the PHSA
25 and therefore “Plaintiffs are likely to succeed on the merits of their *ultra vires* statutory claim”).
26
27
28

III. Plaintiffs Will Suffer Irreparable Harm Absent a Preliminary Injunction.

“[T]he ‘deprivation of constitutional rights unquestionably constitutes irreparable injury.’” *Shilling v. United States*, No. 25-cv-241-BHS, 2025 WL 926866, at *25 (W.D. Wash. Mar. 27, 2025) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017)). This includes the loss of First Amendment freedoms “for even minimal periods of time.” *Elrod*, 427 U.S. at 373. Even “a prospective violation of a constitutional right constitutes irreparable injury for purposes of seeking equitable relief.” *Karem v. Trump*, 960 F.3d 656, 667 (D.C. Cir. 2020) (cleaned up). The Orders violate Plaintiffs’ constitutional rights, *supra*, Section II.A–C, and there is nothing speculative about it, *supra* Section I.A–B. They also impose other irreparable harms, including threatening the health and wellbeing of Plaintiffs’ patients and clients. *See Washington*, 2025 WL 659057, at *26; Mot. at 30–31.

IV. The Balance of Equities and Public Interest Favor Relief.

The balance of equities and the public interest support injunctive relief. Defendants largely rehash arguments rejected by other courts. They assert that “any injunction here would effectively disable almost a dozen federal agencies, as well as the President himself, from implementing the President’s priorities consistent with their legal authorities,” Opp’n Br. 35, which is the same argument *verbatim* that they made in *Diversity Officers*, and which that District Court dismissed. *Nat’l Assoc. of Diversity Officers in Higher Educ. v. Trump*, No. 1:25-cv-00333-ABA, 2025 WL 573764, at *28 (D. Md. Feb. 21, 2025). Contrary to the prediction that an injunction would hamstring the government, the District of Maryland noted they may “promulgate regulations, take litigating positions, propose legislation, or any number of other steps” consistent with the law. *Id.*

Here, Defendants’ litigation position cannot align with the public interest because Defendants’ actions violate constitutional rights. There can be few matters of greater public interest than protecting citizen’s constitutional rights. *Shilling*, 2025 WL 926866, at *28; *see also Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Relief is necessary here because Plaintiffs provide crucial public services and “the public interest is served by reducing barriers to health care and other critical services for all communities.” *Santa Cruz*, 508 F.Supp.3d at 547.

V. Defendants’ Request for a Bond Under Rule 65(c) Should Be Denied.

District courts have discretion to not require a bond. *See Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir. 2011). Defendants’ request for a bond should be denied. First, a preliminary injunction does not pose any realistic likelihood of harm on Defendants. *See, e.g., Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003) (“[F]iling of a bond [may be dispensed] when ... there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”). Second, a bond would effectively deny Plaintiffs judicial review to which they are entitled. *See, e.g., Miller v. Carlson*, 768 F. Supp. 1331, 1340 (N.D. Cal. 1991) (finding courts may dispense with bonds where a requiring one would effectively deny access to judicial review).

VI. Defendants’ Request for a Stay Pending Appeal Should Be Denied.

Defendants’ stay request is procedurally improper. *See Fed. R. Civ. P. 7(b)(1)*. Even so, a stay is not warranted because Defendants cannot meet the stay factors. *Manrique v. Kolc*, 65 F. 4th 1037, 1040 (9th Cir. 2023). Plaintiffs’ likelihood of success on the merits precludes Defendants’ showing *they* will likely succeed. *See Washington v. Trump*, No. 25-807, 2025 WL 553485, at *3 (9th Cir. Feb. 19, 2025). And Defendants fail to show that they face “irreparable injury” likely to occur “before the appeal is decided.” *Doe #1 v. Trump*, 957 F.3d 1050, 1058–59 (9th Cir. 2020).

The Court also should deny the request for an administrative stay, the purpose of which is to preserve the *status quo*. *See Nat’l Urban League v. Ross*, 977 F.3d 698, 700–01 (9th Cir. 2020). The relief Plaintiffs seek preserves the *status quo ante litem* and Defendants face no immediate harm warranting emergency relief. *See Doe #1 v. Trump*, 944 F.3d 1222, 1223 (9th Cir. 2019).

CONCLUSION

The Court should enter an injunction consistent with the amended proposed order provided.

1 Dated this 18th of April, 2025.

Respectfully,

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Appendix A Challenged Provisions

Executive Order 14168 – The Gender Order	
Section 3(e) (the “ <u>Gender Termination Provision</u> ”)	Agencies shall remove all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology, and shall cease issuing such statements, policies, regulations, forms, communications or other messages. Agency forms that require an individual’s sex shall list male or female, and shall not request gender identity. Agencies shall take all necessary steps, as permitted by law, to end the Federal funding of gender ideology.
Section 3(g) (the “ <u>Gender Promotion Provision</u> ”)	Federal funds shall not be used to promote gender ideology. Each agency shall assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.
Section 4(d) (the “ <u>Intimate Spaces Provision</u> ”)	Agencies shall effectuate this policy by taking appropriate action to ensure that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity.

Executive Order 14151 – DEI-1 Order

Section 2(b)(i) (the “**Equity Termination Provision**”)

(i) **terminate, to the maximum extent allowed by law, all DEI, DEIA, and “environmental justice” offices and positions (including but not limited to “Chief Diversity Officer” positions); all “equity action plans,” “equity” actions, initiatives, or programs, “equity-related” grants or contracts; and all DEI or DEIA performance requirements for employees, contractors, or grantees.**

Section 2(b)(ii)(C) (the “**List Provision**”)

(ii) provide the Director of the OMB with a list of all: ... (C) **Federal grantees who received Federal funding to provide or advance DEI, DEIA, or “environmental justice” programs, services, or activities since January 20, 2021.**

Executive Order 14173 – DEI-2 Order

Section 3(c)(ii) (the “**DEIA Principles Provision**”)

Excise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures to streamline those procedures, improve speed and efficiency, lower costs, and comply with civil-rights laws.

Section 3(c)(iii) (the “**Diversity Termination Provision**”)

Terminate all “diversity,” “equity,” “equitable decision-making,” “equitable deployment of financial and technical assistance,” “advancing equity,” and like mandates, requirements, programs, or activities, as appropriate.

Section 3(b)(iv)(A)-(B) (the “**Certification Provision**”)

(iv) The head of each agency **shall include in every contract or grant award:**
 (A) A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and
 (B) A term **requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI** that violate any applicable Federal anti-discrimination laws.

Section 4(b) (the “**Enforcement Threat Provision**”)

(b) To further inform and advise me so that my Administration may formulate appropriate and effective civil-rights policy, the Attorney General, within 120 days of this order, in consultation with the heads of relevant agencies and in coordination with the Director of OMB, shall submit a report to the Assistant to the President for Domestic Policy containing **recommendations for enforcing Federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI**. The report shall contain a proposed strategic enforcement plan identifying:

- (i) Key sectors of concern within each agency’s jurisdiction;
- (ii) The most egregious and discriminatory DEI practitioners in each sector of concern;
- (iii) A plan of **specific steps or measures to deter DEI programs or principles (whether specifically denominated “DEI” or otherwise)** that constitute illegal discrimination or preferences. As a part of this plan, each agency shall identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or associations, foundations with assets of 500 million dollars or more, State and local bar and medical associations, and institutions of higher education with endowments over 1 billion dollars;
- (iv) Other **strategies to encourage the private sector to end illegal DEI discrimination** and preferences and comply with all Federal civil-rights laws;
- (v) Litigation that would be potentially appropriate for Federal lawsuits, intervention, or statements of interest; and
- (vi) Potential regulatory action and sub-regulatory guidance.

APPENDIX B

Statutory Provisions Related to Funding Sources

Funding Source	Plaintiff(s)	Statutory/Regulatory Provision
Federal financial assistance from the U.S. Department of Health and Human Services, including any of its components such as CDC, HRSA, NIH, and SAMHSA	<p>SF AIDS Foundation (Dkt. 47-9 ¶¶ 6-9; Dkt. 58 ¶¶ 3, 5-21)</p> <p>SF Community Health Center (Dkt. 47-10 ¶¶ 5-8)</p> <p>LA LGBT Center (Dkt. 47-5 ¶¶ 7-11; Dkt. 57 ¶¶ 3, 5-28)</p> <p>Prisma Community Care (Dkt. 47-8 ¶¶ 9-16)</p> <p>Bradbury-Sullivan Center (Dkt. 47-2 ¶ 7)</p> <p>NY LGBT Center (Dkt. 47-7 ¶¶ 13-14, 18-19)</p>	<p>“Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 794 of title 29, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance.” 42 U.S.C. §18116(a) (emphasis added).</p>
U.S. Department of Health and Human Services (HRSA) – Public Health Service Act Funding	<p>SF Community Health Center (Dkt. 47-10 ¶ 6)</p> <p>LA LGBT Center (Dkt. 47-6 ¶ 10)</p>	<p>“No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.” 42 U.S.C. § 300w-7(a)(2) (emphasis added).</p>
U.S. Department of Health and Human Services (HRSA) – Federally Qualified Health Centers (FQHCs)	<p>SF Community Health Center (Dkt. 47-10 ¶ 6)</p> <p>LA LGBT Center (Dkt. 47-5 ¶ 11)</p>	<p>“For purposes of this section, the term “health center” means an entity that serves a population that is medically underserved ...” 42 U.S.C. § 254b(a)(1) (emphasis added).</p> <p>“A State may award grants to health care providers who treat a</p>

		high percentage , as determined by such State, of medically underserved populations or other special populations in such State.” 42 U.S.C. § 254b-1(a) (emphasis added).
U.S. Department of Health and Human Services (CDC and HRSA) – Ryan White HIV/AIDS Program (RWHAP)	<p>SF AIDS Foundation (Dkt. 47-9 ¶ 9)</p> <p>SF Community Health Center (Dkt. 47-10 ¶ 7)</p> <p>LA LGBT Center (Dkt. 47-5 ¶ 11)</p> <p>Prisma Community Care (Dkt. 47-8 ¶¶ 9, 13)</p> <p>Baltimore Safe Haven (Dkt. 47-1 ¶ 9b)</p> <p>Bradbury-Sullivan Center (Dkt. 47-2 ¶ 7)</p>	<p>“To be eligible for assistance under this subpart, the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall reflect in its composition the demographics of the population of individuals with HIV/AIDS in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).” 42 U.S.C. § 300ff-12(b)(1) (emphasis added).</p> <p>“Underserved populations. Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.” 42 U.S.C. § 300ff-52(a)(2) (emphasis added).</p> <p>“For the purpose of carrying out activities under this section to evaluate and address the</p>

		<p>disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), ... The Secretary shall develop a formula for the awarding of grants under subsections (b)(1)(A) and (b)(1)(B) that ensures that funding is provided based on the distribution of populations disproportionately impacted by HIV/AIDS.” 42 U.S.C. § 300ff-121(a) (emphasis added).</p>
<p>U.S. Department of Health and Human Services (NIH) – NIH Research Funding</p>	<p>SF AIDS Foundation (Dkt. 47-9 ¶ 9; Dkt. 58 ¶¶ 3, 5-13)</p> <p>LA LGBT Center (Dkt. 47-5 ¶ 11; Dkt. 57 ¶¶ 3, 5-27)</p> <p>FORGE (Dkt. 47-3 ¶¶ 7, 11)</p>	<p>“In carrying out the purposes of section 241 of this title, the Secretary, acting through the Director of NIH—shall assemble accurate data to be used to assess research priorities, including—(A) information to better evaluate scientific opportunity, public health burdens, and progress in reducing health disparities; and (B) data on study populations of clinical research, funded by or conducted at each national research institute and national center, which—(i) specifies the inclusion of—(I) women; (II) members of minority groups; (III) relevant age categories, including pediatric subgroups; and (IV) other demographic variables as the Director of the National Institutes of Health determines appropriate;” 42 U.S.C. § 282(b)(4) (emphasis added).</p> <p>“In the case of clinical research, the catalog shall as appropriate, identify study populations by demographic variables, including biological and</p>

1 social variables and relevant age
2 categories (such as pediatric
3 subgroups), and determinants of
4 health, that **contribute to research
on minority health and health
disparities.**" 42 U.S.C. §
5 283(a)(4)(B) (emphasis added).

6 "The Director of the National
7 Institutes of Health shall, as
8 appropriate, **encourage efforts to
improve research related to the
health of sexual and gender
minority populations**, including
9 by—(1) **facilitating increased
participation of sexual and gender
minority populations in clinical
research** supported by the National
10 Institutes of Health, and reporting on
11 such participation, as applicable; (2)
12 **facilitating the development of
valid and reliable methods for
research relevant to sexual and
gender minority populations**; and
13 (3) addressing methodological
14 challenges." 42 U.S.C. § 283p
15 (emphasis added).

16 "The Associate Director for Special
17 Populations [of the National
18 Institute of Mental Health] **shall—**
19 **(A) develop and coordinate
research policies and programs to
assure increased emphasis on the
mental health needs of women and
minority populations; (B) support
programs of basic and applied
social and behavioral research on
the mental health problems of
women and minority populations;**
20 **(C) study the effects of
discrimination on institutions and
individuals**, including majority
21 institutions and individuals; (D)
22 support and develop research
23 designed to eliminate institutional
24 discrimination; and (E) **provide
increased emphasis on the**

1 **concerns of women and minority**
2 **populations in training programs,**
3 **service delivery programs, and**
4 **research endeavors of the**
5 **Institute.” 42 U.S.C. § 285p(e)(2)**
6 **(emphasis added).**

7 “The general purpose of the
8 National Institute on Minority
9 Health and Health Disparities ... is
10 the **conduct and support of**
11 **research, training, dissemination**
12 **of information, and other**
13 **programs with respect to minority**
14 **health conditions and other**
15 **populations with health**
16 **disparities.” 42 U.S.C. § 285t**
17 **(emphasis added).**

18 “The Director of the Institute **shall**
19 **make awards of grants or**
20 **contracts to designated**
21 **biomedical and behavioral**
22 **research institutions** under
23 paragraph (1) of subsection (c), or to
24 consortia under paragraph (2) of
25 such subsection, **for the purpose of**
26 **assisting the institutions in**
27 **supporting programs of**
28 **excellence in biomedical and**
behavioral research training for
individuals who are members of
minority health disparity
populations or other health
disparity populations.” 42 U.S.C.
§ 285t-1 (emphasis added).

“In conducting or supporting
clinical research for purposes of this
subchapter, **the Director of NIH**
shall, subject to subsection (b),
ensure that ... members of
minority groups are included as
subjects in such research.” 42
U.S.C. § 289a-2(a)(1)(B).

“The Director of NIH ... **shall**
conduct or support outreach
programs for the recruitment of

		women and members of minority groups as subjects in projects of clinical research. ” 42 U.S.C. § 289a-2(a)(2).
U.S. Department of Health and Human Services – Centers for Medicare & Medicaid Services – Medical Insurance Enrollment	NY LGBT Center (Dkt. 47-7 ¶ 19)	“ conducting outreach to and enrolling vulnerable and underserved populations eligible for medical assistance under this subchapter or for child health assistance under subchapter XXI, including children, unaccompanied homeless youth , children and youth with special health care needs, pregnant women, racial and ethnic minorities , rural populations, victims of abuse or trauma, individuals with mental health or substance-related disorders, and individuals with HIV/AIDS. ” 42 U.S.C. § 1396w-3(b)(1)(F) (emphasis added).
U.S. Department of Health and Human Services (OFVPS) – Office of Family Violence Prevention Services Funding	LA LGBT Center (Dkt. 57 ¶¶ 3, 28)	<p>“Each such application shall— ... describe how the State or Indian tribe will involve community-based organizations, whose primary purpose is to provide culturally appropriate services to underserved populations, including how such community-based organizations can assist the State or Indian tribe in addressing the unmet needs of such populations” 42 U.S.C. § 10407(a)(2)(E) (emphasis added).</p> <p>“Funds awarded to eligible entities under subsection (a) shall be used to provide shelter, supportive services, or prevention services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, which may include— ... prevention services, including outreach to underserved populations.” 42</p>

		<p>U.S.C. § 10408(b)(1)(H) (emphasis added).</p> <p>“The term ‘underserved populations’ has the meaning given the term in section 12291(a) of Title 34. For the purposes of this chapter, the Secretary has the same authority to determine whether a population is an underserved population as the Attorney General has under that section 12291(a) of Title 34.” 42 U.S.C. § 10402(14) (emphasis added).</p> <p>“The term ‘underserved populations’ means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate.” 34 U.S.C. § 12291(46).</p>
<p>U.S. Department of Housing and Urban Development – Housing Opportunities for Persons With AIDS (HOPWA) Program</p>	<p>SF Community Health Center (Dkt. 47-10 ¶¶ 7, 23)</p> <p>LA LGBT Center (Dkt. 47-6 ¶ 5)</p> <p>Prisma Community Care (Dkt. 47-8 ¶¶ 9, 13)</p>	<p>“Affirmative outreach. A grantee or project sponsor must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of</p>

		<p>implementation of the procedures.” 24 C.F.R. § 574.603(b).</p> <p>“<i>Family</i> is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity, or marital status, who are determined to be important to the eligible person or person’s care or well-being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.” 24 C.F.R. § 574.3 (emphasis added).</p>
<p>U.S. Department of Housing and Urban Development – (a) Youth Homelessness Demonstration Program; and (b) Continuum of Care Program – Transitional Housing/Rapid Rehousing Component</p>	<p>Baltimore Safe Haven (Dkt. 47-1 ¶¶ 6, 9)</p>	<p>“It is the purpose of this chapter-- ... to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, Native Americans, and veterans.” 42 U.S.C. § 11301(b)(3) (emphasis added).</p> <p>“The purposes of this part are-- ... to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness” 42 U.S.C. § 11381 (West)</p> <p>“The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 11386a of this title, to carry out eligible activities under this part for projects that meet the program requirements under section 11386 of this title, either by directly awarding</p>

		<p>funds to project sponsors or by awarding funds to unified funding agencies.” 42 U.S.C. § 11382(a).</p> <p>“Special populations. All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth; persons living with HIV/AIDS; and victims of domestic violence, dating violence, sexual assault, or stalking.” 24 C.F.R. § 578.53(c) (emphasis added).</p>
<p>U.S. Department of Justice – Office of Violence Against Women Funding and Violence Against Women Act (VAWA) Funding</p>	<p>LA LGBT Center (Dkt. 47-5 ¶¶ 7, 13)</p> <p>FORGE (Dkt. 47-3 ¶ 7)</p>	<p>“Grants under this subchapter shall provide personnel, training, technical assistance, data collection and other resources for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, for the protection and safety of victims, and specifically, for the purposes of-- ... developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity, as defined in section 249(c) of Title 18.” 34 U.S.C. § 10441(b)(19) (emphasis added).</p> <p>“A State applying for a grant under this subchapter shall-- ... submit to the Attorney General-- ... the demographic characteristics of the populations to be served, including age, disability, race, ethnicity, sexual orientation, gender identity, and language</p>

1 **background.”** 34 U.S.C. §
2 10446(i)(2)(iv) (emphasis added).

3 “The term ‘underserved
4 populations’ means populations
5 who face barriers in accessing and
6 using victim services, and includes
7 populations underserved because of
8 geographic location, religion,
9 **sexual orientation, gender**
10 **identity, underserved racial and**
11 **ethnic populations, populations**
12 **underserved because of special**
13 **needs (such as language barriers,**
14 **disabilities, alienage status, or**
15 **age), and any other population**
16 **determined to be underserved by the**
17 **Attorney General or by the**
18 **Secretary of Health and Human**
19 **Services, as appropriate.”** 34 U.S.C.
20 §12291(a)(46) (emphasis added).

21 “No person in the United States
22 shall, on the basis of actual or
23 perceived **race, color, religion,**
24 **national origin, sex, gender**
25 **identity (as defined in paragraph**
26 **249(c)(4) of Title 18), sexual**
27 **orientation, or disability, be**
28 **excluded from participation in, be**
denied the benefits of, or be
subjected to discrimination under
any program or activity funded in
whole or in part with funds made
available under the Violence
Against Women Act of 1994 (title
IV of Public Law 103-322; 108 Stat.
1902), the Violence Against Women
Act of 2000 (division B of Public
Law 106-386; 114 Stat. 1491), the
Violence Against Women and
Department of Justice
Reauthorization Act of 2005 (title
IX of Public Law 109-162; 119 Stat.
3080), the Violence Against Women
Reauthorization Act of 2013, and
any other program or activity funded
in whole or in part with funds

		appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.” 34 U.S.C. § 12291(b)(13)(A) (emphasis added).
U.S. Department of Justice – (a) Office for Victims of Crime and (b) National Institute of Justice	FORGE (Dkt. 47-3 ¶ 7) NY LGBT Center (Dkt 47-7 ¶ 14)	<p>“There shall be a Senior Policy Advisor on Culturally Specific Communities within the Office of Justice Programs who shall, under the guidance and authority of the Assistant Attorney General of the Office of Justice Programs--(1) advise on the administration of grants related to culturally specific (as defined in section 12291(a) of this title) services and contracts with culturally specific organizations; ... (6) ensure access to grants and technical assistance for culturally specific organizations and analyze the distribution of funding in order to identify barriers for culturally specific organizations.” 34 U.S.C. § 10112(a) (emphasis added).</p> <p>“The term ‘culturally specific’ means primarily directed toward racial and ethnic minority groups (as defined in section 1707(g) of the Public Health Service Act (42 U.S.C. 300u-6(g)).” 34 U.S.C.A. § 12291(a)(8) (emphasis added).</p>
National Endowment for the Humanities	GLBT Historical Society (Dkt. 47-4 ¶ 14; Dkt. 56 ¶ 3)	<p>“It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.” 20 U.S.C. § 951(10) (emphasis added).</p> <p>“The purpose of the [National Foundation on the Arts and the</p>

Humanities] shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which **preserve the cultural heritage of the United States** pursuant to this subchapter.” 20 U.S.C. § 953(b) (emphasis added).

“In the administration of this subchapter no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.” 20 U.S.C. § 953(c).

“The Chairperson ... is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to-- ... (4) **initiate and support programs and research which** have substantial scholarly and cultural significance and that reach, or **reflect the diversity and richness of our American cultural heritage, including the culture of, a minority, inner city, rural, or tribal community**; ... In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson **shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.**” 20 U.S.C. § 956(c) (emphasis added).

APPENDIX C
PLAINTIFFS' TERMINATED GRANTS

Plaintiff	Federal Award ID Number	Grant Amount	Status	Defendant Agency	Grant Description
GLBT Historical Society	PG-300781-24 Ordenana Supp. Decl. Ex. A.	\$10,000.00. Ordenana Supp. Decl. ¶ 3 & Ex. A.	Terminated April 2, 2025. Ordenana Supp. Decl. ¶ 9 & Ex. B.	National Endowment for the Humanities	This grant, issued as part of the American Tapestry initiative, was intended to support the purchase, shipping, and installation of preservation furniture for the storage and preservation of approximately 1,500 rare and unique LGBTQ archival posters within GLBT Historical Society's Dr. John P. De Cecco Archives and Special Collections. Ordenana Supp. Decl. ¶ 5.
SFAF	1R01AI181732-01A1. TerMeer Supp. Decl. Ex. A.	\$52,822.00. TerMeer Supp. Decl. ¶ 8 & Ex. B.	Terminated March 18, 2025. TerMeer Supp. Decl. ¶ 9 & Ex. C.	Department of Health and Human Services (HHS)	To study the effectiveness of Doxy-PEP, a post-exposure prophylaxis to prevent bacterial

					sexually transmitted infections like chlamydia, gonorrhea, and syphilis. TerMeer Supp. Decl. ¶ 5.
SFAF	B09SM085337 & B08TI083929. TerMeer Supp. Decl. Ex. D.	\$125,000. TerMeer Supp. Decl. ¶ 14 & Ex. D.	Terminated March 24, 2025. TerMeer Supp. Decl. ¶ 19 & Ex. E.	Department of Health and Human Services (HHS)	To fund SFAF's work enhancing access and equity in substance use treatment services through strengthening the Treatment on Demand Coalition by organizing and working with other behavioral health recovery service providers to expand substance use treatment and address racial disparities in overdose and treatment outcomes in San Francisco. TerMeer Supp. Decl. ¶ 16.
LA LGBT Center	1R01DA06134 5-01. Hollendoner Supp. Decl. ¶¶ 5, 8 & Exs. A, B.	\$2,068,560 over eight years. Hollendoner Supp. Decl. ¶ 8.	Terminated March 24, 2025. Hollendoner Supp. Decl. ¶ 14 & Ex. C.	Department of Health and Human Services (HHS)	To study the intersection of race and substance use and HIV outcomes in Los Angeles

					County under the project title: "Race & Place: The Impacts of Racial Inequality on Substance Use and HIV Outcomes in Los Angeles." Hollendoner Supp. Decl. ¶¶ 5, 7.
LA LGBT Center	4R00DA05550 8-03	\$12,536. Hollendoner Supp. Decl. ¶ 21 & Ex. D.	Terminated March 21, 2025. Hollendoner Supp. Decl. ¶ 24 & Ex. E.	Department of Health and Human Services (HHS)	To investigate health disparities and outcomes among transgender and gender-diverse populations, focusing on substance use, mental health, and barriers to healthcare access to inform evidence-based interventions and improve public health strategies. Hollendoner Supp. Decl. ¶ 20.

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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

SAN FRANCISCO AIDS FOUNDATION;
et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
 as President of the United States; *et al.,*

Defendants.

Case No. 4:25-cv-01824-JST

**SUPPLEMENTAL DECLARATION OF
 JOSE ABRIGO IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 PRELIMINARY INJUNCTION**

1 I, Jose Abrigo, hereby state as follows:

2 1. I am over 18 years of age, of sound mind, and fully capable of making this
3 declaration. I have personal knowledge of the facts set forth in this declaration, they are true and
4 correct, and I would be able to testify about these facts if I were called as a witness at a hearing or
5 trial.

6 2. I am a licensed attorney in the State of New York. I am Senior Attorney and HIV
7 Project Director at Lambda Legal, and counsel for Plaintiffs in this action.

8 3. I submit this supplemental declaration in support of Plaintiffs' Motion for a
9 Preliminary Injunction.

10 4. On March 6, 2025, in a joint address to Congress, President Trump declared,
11 "We've ended the tyranny of so-called diversity, equity, and inclusion policies all across the entire
12 federal government and, indeed, the private sector and our military. And our country will be woke
13 no longer." **Exhibit R-1** is a true and correct transcript of the joint address.

14 5. In the address President Trump also stated, "And I signed an order making it the
15 official policy of the United States government that there are only two genders: male and female."
16 *Id.*

17 6. On February 10, 2025, the U.S. Department of Health and Human Services issued
18 a Secretarial Directive on DEI-related Funding instructing HHS to "avoid[] the expenditure of
19 federal funds on programs, **or with contractors or vendors, that promote or take part in**
20 **diversity, equity, and inclusion ("DEI") initiatives.**" (Emphasis added). **Exhibit R-2** is a true
21 and correct copy of the February 10, 2025 secretarial directive.

22 7. On February 13, 2025, a memorandum was distributed to National Institute of
23 Health ("NIH") grant management officers that announced hard funding restrictions" on "awards
24 where the program promotes or takes part in diversity, equity, and inclusion [sic] ('DEI') initiatives"
25 with those restrictions applying "to new and continuation awards made on or after February 14,
26 2025." **Exhibit R-3** is a true and correct copy of the February 13, 2025 memorandum titled
27

1 “Supplemental Guidance to Memo Entitled- NIH Review of Agency Priorities Based on the New
2 Administration’s Goals.”

3 8. Public reporting concerning the February 13 memorandum has documented that
4 “the agency conducted a keyword search to identify ‘DEI’ grants.” **Exhibit R-4** is a true and
5 correct copy of the article “UPDATE: NIH reimposes ‘DEI’ funding freeze despite court order,”
6 authored by Judd Legum and published in Popular Information on February 24, 2025 at the
7 following address: <https://popular.info/p/update-nih-reimposes-dei-funding>.

8 9. On or about March 4, 2025, NIH issued staff guidance titled “Staff Guidance –
9 Award Assessments for Alignment with Agency Priorities – March 2025,” which, *inter alia*,
10 requires the termination of any NIH grants related to “DEI” or “transgender issues” and provides
11 the following language for such terminations:

12 DEI: Research programs based primarily on artificial and non-scientific categories,
13 including amorphous equity objectives, are antithetical to the scientific inquiry, do
14 nothing to expand our knowledge of living systems, provide low returns on
15 investment, and ultimately do not enhance health, lengthen life, or reduce illness.
16 Worse, so-called diversity, equity, and inclusion (“DEI”) studies are often used to
17 support unlawful discrimination on the basis of race and other protected
18 characteristics, which harms the health of Americans. Therefore, it is the policy of
19 NIH not to prioritize such research programs.

20 Transgender issues: Research programs based on gender identity are often
21 unscientific, have little identifiable return on investment, and do nothing to enhance
22 the health of many Americans. Many such studies ignore, rather than seriously
23 examine, biological realities. It is the policy of NIH not to prioritize these research
24 programs.

25 **Exhibit R-5** is a true and correct copy of the March 4, 2025 staff guidance.

26 10. On March 13, 2025, Michelle G. Bulls sent an email to other NIH with the subject
27 “Award Revision Guidance and List of Terminated Grants via letter on 3/12” and “updated
28 categories for you to use when issuing NOAs to officially terminate the awards where letters were
issued.” **Exhibit R-6** is a true and correct copy of the March 13, 2025 email and the attachment
thereto of updated categories.

11. On March 15, 2025, an article was published that reports that the National Institutes
of Health (NIH) and the National Science Foundation (NSF) have implemented a list of 197 terms

that, if included in grant proposals, may trigger additional reviews. These terms include words like “transgender,” “gender identity,” “diversity,” “equity,” “inclusion,” “racism,” or “implicit bias,” among others. **Exhibit R-7** is a true and correct copy of the article titled “These 197 Terms May Trigger Reviews Of Your NIH, NSF Grant Proposals,” authored by Bruce Y. Lee and published by Forbes at the following address: <https://www.forbes.com/sites/brucelee/2025/03/15/these-197-terms-may-trigger-reviews-of-your-nih-nsf-grant-proposals/>.

12. Upon information and belief, on March 25, 2025, a memorandum was sent to NIH grants specialists to terminate all grants related to “DEI” and “transgender issues.” **Exhibit R-8** is a true and correct copy of the article titled “Exclusive: NIH to cut grants for COVID research, documents reveal,” authored by Max Kozlov and published by Nature Magazine on March 26, 2025 at the following address: <https://www.nature.com/articles/d41586-025-00954-y>.

13. Public reporting compiled an analysis of all 800 terminated NIH grants. The terminations disproportionately affect research on HIV/AIDS (28.7% of terminated grants), and the health of transgender people (24.3%). Projects from the National Institute on Minority Health and Health Disparities were especially hard hit as the NIH institute losing the most. **Exhibit R-9** is a true and correct copy of the article titled “How Trump 2.0 is slashing NIH-backed research — in charts,” authored by Max Kozlov and Chris Ryan and published by Nature Magazine on April 10, 2025 at the following address: <https://www.nature.com/articles/d41586-025-01099-8>.

14. On April 11, 2025, Defendant U.S. Department of Health and Human Services, along with the U.S. Department of Education and General Services Administration, sent a letter to Harvard University requiring the discontinuation of all DEI as a condition of federal funding. The Letter specifically stated, in part:

Discontinuation of DEI. The University must immediately shutter **all diversity, equity, and inclusion (DEI) programs,** offices, committees, positions, and initiatives, under whatever name, and stop **all DEI-based policies, including DEI-based disciplinary or speech control policies, under whatever name;** demonstrate that it has done so to the satisfaction of the federal government; and demonstrate to the satisfaction of the federal government that these reforms are durable and effective through structural and personnel changes.

(emphasis added). **Exhibit R-10** is a true and correct copy of April 11, 2025 letter.

15. On February 26, 2025, public reporting revealed that an internal email that the U.S. Department of Housing and Urban Development (“HUD”) was moving to cancel “all awards” for eight contractors after a “DOGE review of their websites and LinkedIn profiles. Many of the eight targeted contractors featured language around diversity initiatives on their websites and LinkedIn profiles. **Exhibit R-11** is a true and correct copy of the article titled “DOGE Cites ‘DEI,’ LinkedIn Profiles It Doesn’t Like In Killing Off HUD Contracts,” authored by Josh Kovensky and published by Talking Points Memo on February 26, 2025 at the following address: <https://talkingpointsmemo.com/news/doge-cites-dei-linkedin-profiles-it-doesnt-like-in-killing-off-hud-contracts>.

16. On March 21, 2025, counsel for the defendants in *National Urban League v. Trump*, No. 1:25-cv-00471-TJK (D.D.C.), filed a notice explaining that pursuant to Section 3(c)(ii) of Executive Order 14173, which requires the Office of Management and Budget to “[e]xcise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures,” “[p]rivate parties subject to Government agreements may be required to follow some of the relevant federal procedures, which, at times, are also specified in the agreements’ terms and conditions.” **Exhibit R-12** is a true and correct copy of the March 21, 2025 notice.

17. Attached as **Exhibit R-13** is a true and correct copy of the transcript of the remarks by now President Donald J. Trump at Turning Point’s AmericaFest 2024, as reported by the Singju Post on December 23, 2024 in an article titled “Trump Remarks at Turning Point’s AmericaFest 2024 (Transcript),” and which can be found at the following address: <https://singjupost.com/trump-remarks-at-turning-points-americafest-2024-transcript/>.

18. On April 3, 2025, a letter was published by former Equal Employment Opportunity Commission (EEOC) officials that criticizes the Trump Administration’s ongoing effort to dismantle DEI initiatives, specifically through EEOC Acting Chair Andrea Lucas’s March 2025

document titled “What You Should Know About DEI-Related Discrimination at Work”, which warns employers of potential legal risks associated with diversity, equity, and inclusion programs. The former officials state that the Acting Chair misrepresents well-established civil rights law and creates a chilling effect on lawful, voluntary workplace practices that advance equal opportunity. They reaffirm that employers can legally pursue diversity goals, offer inclusion training, support employee resource groups, and analyze workforce demographics without violating Title VII. The letter stresses that these DEI efforts are not only legal but essential to combat ongoing discrimination, foster workplace fairness, and enhance organizational success. It urges civil rights agencies to support rather than undermine proactive employer actions that promote equality and lawful inclusion efforts. **Exhibit R-14** is a true copy of the letter published by former EEOC officials.

19. On April 15, 2025, a letter from former U.S. Department of Labor officials was circulated which strongly condemns the Trump Administration's efforts to dismantle long-standing federal diversity, equity, inclusion, and accessibility (DEIA) protections. It explains that the Administration revoked Executive Order 11246, which for decades required federal contractors to promote equal opportunity and prevent discrimination. In its place, the Administration issued EO 14173, which not only eliminated proactive civil rights enforcement but also threatened federal contractors with investigations and enforcement actions for continuing voluntary DEIA practices. The letter criticizes these actions as unlawful, unconstitutional, and contrary to Congress's civil rights mandates, noting that the Administration lacks authority to punish past compliance or to compel contractors to abandon lawful efforts. It warns that these efforts are part of a broader strategy to intimidate employers, chill free speech, and dismantle core anti-discrimination protections under the guise of “restoring merit.” **Exhibit R-15** is a true copy of the letter published by former Department of Labor officials.

20. On February 5, 2025, the U.S. Attorney General issued a Memorandum for All Department Employees with the subject “Ending Illegal DEI and DEIA Discrimination and

1 Preferences.” The memorandum states that DEI-2 Order “mak[es] clear that policies relating to
2 ‘diversity, equity, and inclusion’ (‘DEI’) and ‘diversity, equity, inclusion, and accessibility’
3 (‘DEIA’) ‘violate the text and spirit of our longstanding Federal civil-rights laws” and “undermine
4 our national unity.’” **Exhibit R-16** is a true and correct copy of the February 5, 2025 memorandum
5 issued by the Attorney General.

6
7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Dated: April 18, 2025

10 Respectfully submitted,

11 
12 _____
13 Jose Abrigo
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EXHIBIT R-1

The WHITE HOUSE

REMARKS

REMARKS BY PRESIDENT TRUMP IN JOINT ADDRESS TO CONGRESS

The White House

March 6, 2025

U.S. Capitol
Washington, D.C.
9:19 P.M. EST

(March 4, 2025)

THE PRESIDENT: Thank you. (Applause.) Thank you very much. Thank you very much. It's a great honor. Thank you very much.

Speaker Johnson, Vice President Vance, the first lady of the United States — (applause) — members of the United States Congress, thank you very much.

And to my fellow citizens, America is back. (Applause.)

AUDIENCE: USA! USA! USA!

THE PRESIDENT: Six weeks ago, I stood beneath the dome of this Capitol and proclaimed the dawn of the golden age of America. From that moment on, it has been nothing but swift and unrelenting action to usher in the greatest and most successful era in the history of our country.

We have accomplished more in 43 days than most administrations accomplished in four years or eight years, and we are just getting started. (Applause.) Thank you.

I return to this chamber tonight to report that America's momentum is back, our spirit is back, our pride is back, our confidence is back, and the American dream is surging bigger and better than ever before. (Applause.) The American dream is unstoppable, and our country is on the verge of a comeback, the likes of which the world has never witnessed and perhaps will never witness again. There's never been anything like it. (Applause.)

The presidential election of November 5th was a mandate like has not been seen in many decades. We won all seven swing states, giving us an electoral college victory of

312 votes. (Applause.) We won the popular vote —

REPRESENTATIVE GREEN: (Inaudible.)

THE PRESIDENT: — by big numbers and won counties in our country —

AUDIENCE: Booo —

AUDIENCE: USA! USA! USA!

REPRESENTATIVE GREEN: You are — you have no right to cut Medicaid.

AUDIENCE: USA! USA! USA!

THE PRESIDENT: — and won counties in our country 2,700 to 525 on a map that reads almost completely red for Republican. (Applause.)

Now, for the first time in modern history, more Americans believe that our country is headed in the right direction than the wrong direction. In fact, it's an astonishing record: 27-point swing, the most ever. (Applause.)

Likewise, small-business optimism saw its single largest one-month gain ever recorded.

SPEAKER JOHNSON: Mr. President —

THE PRESIDENT: A 41-point jump.

(Speaker Johnson strikes the gavel.)

SPEAKER JOHNSON: Members are directed to uphold and maintain decorum in the House and to cease any further disruptions. That's your warning.

REPRESENTATIVE GREEN: He has no mandate to cut Medicaid.

SPEAKER JOHNSON: Members are engaging in willful and continuing breach of decorum, and the chair is prepared to direct the sergeant at arms to restore order to the joint session. (Applause.)

Mr. Green, take your seat. Take your seat, sir.

REPRESENTATIVE GREEN: He has no mandate to cut Medicaid.

SPEAKER JOHNSON: Take your seat.

(Cross-talk.)

Finding that members continue to engage in willful and concerted disruption of proper decorum, the chair now directs the sergeant at arms to restore order. (Applause.)

Remove this gentleman from the chamber. (Applause.)

REPRESENTATIVE GREEN: Shame on all of you.

(Members of the audience sing "Na Na Hey Hey Kiss Him Goodbye.")

(Cross-talk.)

You have no mandate.

SPEAKER JOHNSON: Members are directed to uphold and maintain decorum in the House.

Mr. President, you can continue.

THE PRESIDENT: Thank you.

Over the past six weeks, I have signed nearly 100 executive orders and taken more than 400 executive actions — a record — to restore common sense, safety, optimism, and wealth all across our wonderful land. The people elected me to do the job, and I'm doing it. (Applause.)

In fact, it has been stated by many that the first month of our presidency — it's our presidency — (applause) — is the most successful in the history of our nation by many. (Applause.) And what makes it even more impressive is that — do you know who number two is? George Washington. How about that? (Laughter and applause.) How about that? I don't know about that list, but we'll take it.

Within hours of taking the oath of office, I declared a national emergency on our southern border — (applause) — and I deployed the U.S. military and Border Patrol to repel the invasion of our country. And what a job they've done.

As a result, illegal border crossings last month were, by far, the lowest ever recorded. Ever. (Applause.) They heard my words, and they chose not to come. Much easier that way.

In comparison, under Joe Biden, the worst president in American history — (applause) — there were hundreds of thousands of illegal crossings a month, and virtually all of them, including murderers, drug dealers, gang members, and people from mental institutions and insane asylums, were released into our country. Who would want to do that?

This is my fifth such speech to Congress, and, once again, I look at the Democrats in front of me, and I realize there is absolutely nothing I can say to make them happy or to make them stand or smile or applaud. Nothing I can do. I could find a cure to the most devastating disease — a disease that would wipe out entire nations, or announce the answers to the greatest economy in history or the stoppage of crime to the lowest levels ever recorded, and these people sitting right here will not clap, will not stand,

and certainly will not cheer for these astronomical achievements. They won't do it no matter what.

Five times I've been up here. It's very sad, and it just shouldn't be this way. (Applause.) So, Democrats sitting before me, for just this one night, why not join us in celebrating so many incredible wins for America? For the good of our nation, let's work together and let's truly make America great again. (Applause.)

Every day, my administration is fighting to deliver the change America needs, to bring a future that America deserves, and we're doing it. This is a time for big dreams and bold action.

Upon taking office, I imposed an immediate freeze on all federal hiring, a freeze on all new federal regulations, and a freeze on all foreign aid. (Applause.) I terminated the ridiculous Green New Scam. I withdrew from the unfair Paris Climate Accord, which was costing us trillions of dollars that other countries were not paying. (Applause.) I withdrew from the corrupt World Health Organization. (Applause.) And I also withdrew from the anti-American U.N. Human Rights Council. (Applause.)

We ended all of Biden's environmental restrictions that were making our country far less safe and totally unaffordable. And importantly, we ended the last administration's insane electric vehicle mandate, saving our autoworkers and companies from economic destruction. (Applause.)

To unshackle our economy, I have directed that for every 1 new regulation, 10 old regulations must be eliminated, just like I did in my very successful first term. (Applause.) And in that first term, we set records on ending unnecessary rules and regulations like no other president had done before.

We ordered all federal workers to return to the office. They will either show up for work in person or be removed from their job. (Applause.)

And we have ended weaponized government, where, as an example, a sitting president is allowed to viciously prosecute his political opponent, like me. How did that work out? (Laughter.) Not too good. (Applause.) Not too good.

And I have stopped all government censorship and brought back free speech in America. It's back. (Applause.)

And two days ago, I signed an order making English the official language of the United States of America. (Applause.)

I renamed the Gulf of Mexico the Gulf of America. (Applause.)

And, likewise, I renamed — for a great president, William McKinley — Mount McKinley again. (Applause.) Beautiful Alaska. We love Alaska.

We've ended the tyranny of so-called diversity, equity, and inclusion policies all across the entire federal government and, indeed, the private sector and our military.

(Applause.) And our country will be woke no longer. (Applause.)

We believe that whether you are a doctor, an accountant, a lawyer, or an air traffic controller, you should be hired and promoted based on skill and competence, not race or gender. Very important. (Applause.) You should be hired based on merit. And the Supreme Court, in a brave and very powerful decision, has allowed us to do so.

Thank you. Thank you very much. Thank you. (Applause.)

We have removed the poison of critical race theory from our public schools. And I signed an order making it the official policy of the United States government that there are only two genders: male and female. (Applause.)

I also signed an executive order to ban men from playing in women's sports. (Applause.)

Three years ago, Payton McNabb was an all-star high school athlete — one of the best — preparing for a future in college sports. But when her girls' volleyball match was invaded by a male, he smashed the ball so hard in Payton's face, causing traumatic brain injury, partially paralyzing her right side, and ending her athletic career. It was a shot like she's never seen before. She's never seen anything like it.

Payton is here tonight in the gallery. And, Payton, from now on, schools will kick the men off the girls' team or they will lose all federal funding. (Applause.)

And if you really want to see numbers, just take a look at what happened in the woman's boxing, weightlifting, track and field, swimming, or cycling, where a male recently finished a long-distance race five hours and 14 minutes ahead of a woman for a new record by five hours. Broke the record by five hours.

It's demeaning for women, and it's very bad for our country. We're not going to put up with it any longer. (Applause.)

What I have just described is only a small fraction of the commonsense revolution that is now, because of us, sweeping the entire world. Common sense has become a common theme, and we will never go back. Never. Never going to let that happen. (Applause.)

Among my very highest priorities is to rescue our economy and get dramatic and immediate relief to working families. As you know, we inherited from the last administration an economic catastrophe and an inflation nightmare. Their policies

drove up energy prices, pushed up grocery costs, and drove the necessities of life out of reach for millions and millions of Americans. They've never had anything like it. We suffered the worst inflation in 48 years but perhaps even in the history of our country. They're not sure. As president, I'm fighting every day to reverse this damage and make America affordable again. (Applause.)

Joe Biden especially let the price of eggs get out of control.

AUDIENCE: Booo —

THE PRESIDENT: The egg price is out of control, and we're working hard to get it back down.

Secretary, do a good job on that. You inherited a total mess from the previous administration. Do a good job. (Applause.)

A major focus of our fight to defeat inflation is rapidly reducing the cost of energy. The previous administration cut the number of new oil and gas leases by 95 percent, slowed pipeline construction to a halt, and closed more than 100 power plants. We are opening up many of those power plants right now. (Applause.)

And, frankly, we have never seen anything like it. That's why, on my first day in office, I declared a national energy emergency. (Applause.) As you've heard me say many times, we have more liquid gold under our feet than any nation on Earth and by far. And now I've fully authorized the most talented team ever assembled to go and get it. It's called drill, baby, drill. (Applause.)

My administration is also working on a gigantic natural gas pipeline in Alaska — among the largest in the world — where Japan, South Korea, and other nations want to be our partner with investments of trillions of dollars each. There's never been anything like that one. It will be truly spectacular. It's all set to go. The permitting is gotten.

And later this week, I will also take historic action to dramatically expand production of critical minerals and rare earths here in the USA. (Applause.)

To further combat inflation, we will not only be reducing the cost of energy, but we'll be ending the flagrant waste of taxpayer dollars. (Applause.) And to that end, I have created the brand-new Department of Government Efficiency – DOGE. (Applause.) Perhaps you've heard of it — perhaps — which is headed by Elon Musk, who is in the gallery tonight. (Applause.)

Thank you, Elon. He's working very hard. He didn't need this. (Laughs.) He didn't need this. Thank you very much. We appreciate it. Everybody here, even this side, appreciates it, I believe. (Applause.) They just don't want to admit that.

Just listen to some of the appalling waste we have already identified.

\$22 billion from HHS to provide free housing and cars for illegal aliens.

\$45 million for diversity, equity, and inclusion scholarships in Burma.

\$40 million to improve the social and economic inclusion of sedentary migrants.

Nobody knows what that is. (Laughter.)

\$8 million to promote LGBTQI+ in the African nation of Lesotho, which nobody has ever heard of. (Laughter.)

\$60 million for Indigenous peoples and Afro-Colombian empowerment in Central America. \$60 million.

\$8 million for making mice transgender. (Laughter.) This is real.

\$32 million for a left-wing propaganda operation in Moldova.

\$10 million for male circumcision in Mozambique.

\$20 million for the Arab “Sesame Street” in the Middle East. It’s a program. \$20 million for a program.

\$1.9 billion to recently created decarbonization of homes committee, headed up — and we know she’s involved — just at the last moment, the money was passed over — by a woman named Stacey Abrams. Have you ever heard of her?

AUDIENCE: Booo —

THE PRESIDENT: A \$3.5 million consulting contract for lavish fish monitoring.

\$1.5 million for voter confidence in Liberia.

\$14 million for social cohesion in Mali.

\$59 million for illegal alien hotel rooms in New York City.

AUDIENCE: Booo —

THE PRESIDENT: He’s a real estate developer. He’s done very well.

\$250,000 to increase vegan local climate action innovation in Zambia.

\$42 million for social and behavior change in Uganda.

\$14 million for improving public procurement in Serbia.

\$47 million for improving learning outcomes in Asia. Asia is doing very well with learning. (Laughter.) Don’t know what we’re doing. We should use it ourselves.

And \$101 million for DEI contracts at the Department of Education, the most ever paid. Nothing even like it.

Under the Trump administration, all of these scams — and there are far worse, but I didn’t think it was appropriate to talk about them. They’re so bad. Many more have been found out and exposed and swiftly terminated by a group of very intelligent, mostly

young people, headed up by Elon. And we appreciate it. We've found hundreds of billions of dollars of fraud. (Applause.)

And we've taken back the money and reduced our debt to fight inflation and other things. Taken back a lot of that money. We got it just in time.

AUDIENCE MEMBERS: (Inaudible.)

THE PRESIDENT: This is just the beginning. The Government Accountability Office, a federal government office, has estimated annual fraud of over \$500 billion in our nation, and we are working very hard to stop it. We're going to.

We're also identifying shocking levels of incompetence and probable fraud in the Social Security program for our seniors and that our seniors and people that we love rely on. Believe it or not, government databases list 4.7 million Social Security members from people aged 100 to 109 years old.

THE PRESIDENT: It lists 3.6 million people from ages 110 to 119. I don't know any of them. I know some people that are rather elderly, but not quite that elderly. (Laughter.)

3.47 million people from ages 120 to 129.

3.9 million people from ages 130 to 139.

3.5 million people from ages 140 to 149.

And money is being paid to many of them, and we're searching right now.

In fact, Pam, good luck. Good luck. You're going to find it.

But a lot of money is paid out to people because it just keeps getting paid and paid, and nobody does — and it really hurts Social Security and hurts our country.

1.3 million people from ages 150 to 159. And over 130,000 people, according to the Social Security databases, are age over 160 years old.

We have a healthier country than I thought, Bobby. (Laughter and applause.)

Including, to finish, 1,039 people between the ages of 220 and 229; one person between the age of 240 and 249; and one person is listed at 360 years of age.

AUDIENCE MEMBER: Joe Biden! (Laughter.)

THE PRESIDENT: More than 100 years older than our country.

But we're going to find out where that money is going, and it's not going to be pretty.

By slashing all of the fraud, waste, and theft we can find, we will defeat inflation, bring down mortgage rates, lower car payments and grocery prices, protect our seniors, and put more money in the pockets of American families. (Applause.)

And today, interest rates took a beautiful drop — big, beautiful drop. It's about time.

And in the near future, I want to do what has not been done in 24 years: balance the federal budget. We're going to balance it. (Applause.)

With that goal in mind, we have developed in great detail what we are calling the gold card, which goes on sale very, very soon.

For \$5 million, we will allow the most successful, job-creating people from all over the world to buy a path to U.S. citizenship. It's like the green card but better and more sophisticated. (Laughter.) And these people will have to pay tax in our country. They won't have to pay tax from where they came. The money that they've made, you wouldn't want to do that, but they have to pay tax, create jobs.

They'll also be taking people out of colleges and paying for them so that we can keep them in our country, instead of having them being forced out. Number one at the top school, as an example, being forced out and not being allowed to stay and create tremendous numbers of jobs and great success for a company out there.

So, while we take out the criminals, killers, traffickers, and child predators who were allowed to enter our country under the open border policy of these people — the Democrats, the Biden administration — the open border, insane policies that you've allowed to destroy our country — we will now bring in brilliant, hardworking, job-creating people. They're going to pay a lot of money, and we're going to reduce our debt with that money. (Applause.)

Americans have given us a mandate for bold and profound change. For nearly 100 years, the federal bureaucracy has grown until it has crushed our freedoms, ballooned our deficits, and held back America's potential in every possible way. The nation founded by pioneers and risk-takers now drowns under millions and millions of pages of regulations and debt.

Approvals that should take 10 days to get instead take 10 years, 15 years, and even 20 years before you're rejected. Meanwhile, we have hundreds of thousands of federal workers who have not been showing up to work.

My administration will reclaim power from this unaccountable bureaucracy, and we will restore true democracy to America again. (Applause.) Any federal bureaucrat who resists this change will be removed from office immediately — (applause) — because we are draining the swamp. It's very simple. And the days of rule by unelected bureaucrats are over. (Applause.)

And the next phase of our plan to deliver the greatest economy in history is for this Congress to pass tax cuts for everybody. They're in there. They're waiting for you to vote. (Applause.)

And I'm sure that the people on my right — I don't mean the Republican right, but my right right here — I'm sure you're going to vote for those tax cuts, because, otherwise, I don't believe the people will ever vote you into office. So, I'm doing you a big favor by telling you that. (Applause.)

But I know this group is going to be voting for the taxes. (Applause.)

Thank you. It's a very, very big part of our plan. We had tremendous success in our first term with it. A very big part of our plan. We're seeking permanent income tax cuts all across the board.

And to get urgently needed relief to Americans hit especially hard by inflation, I'm calling for no tax on tips, no tax on overtime, and no tax on Social Security benefits for our great seniors. (Applause.)

(Addressing Speaker Johnson.) Good luck.

And I also want to make interest payments on car loans tax deductible but only if the car is made in America. (Applause.)

And, by the way, we're going to have growth in the auto industry like nobody has ever seen. Plants are opening up all over the place. Deals are being made. Never seen. That's a combination of the election win and tariffs.

It's a beautiful word, isn't it?

That, along with our other policies, will allow our auto industry to absolutely boom. It's going to boom. Spoke to the majors today — all three — the top people, and they're so excited. In fact, already, numerous car companies have announced that they will be building massive automobile plants in America, with Honda just announcing a new plant in Indiana, one of the largest anywhere in the world. (Applause.)

And this has taken place since our great victory on November 5th, a date which will hopefully go down as one of the most important in the history of our country. (Applause.)

In addition, as part of our tax cuts, we want to cut taxes on domestic production and all manufacturing. And just as we did before, we will provide 100 percent expensing. It will be retroactive to January 20th, 2025, and it was one of the main reasons why our tax cuts were so successful in our first term, giving us the most successful economy in the history of our country. First term — we had a great first term. (Applause.)

If you don't make your product in America, however, under the Trump administration, you will pay a tariff and, in some cases, a rather large one. Other countries have used tariffs against us for decades, and now it's our turn to start using them against those other countries.

On average, the European Union, China, Brazil, India, Mexico, and Canada — have you heard of them? — and countless other nations charge us tremendously higher tariffs than we charge them. It's very unfair. India charges us auto tariffs higher than 100 percent. China's average tariff on our products is twice what we charge them. And South Korea's average tariff is four times higher. Think of that: four times higher. And we give so much help militarily and in so many other ways to South Korea, but that's what happens.

This is happening by friend and foe. This system is not fair to the United States and never was. And so, on April 2nd — I wanted to make it April 1st, but I didn't want to be accused of April Fool's Day. (Laughter.) Just one day, which cost us a lot of money. (Laughter.) But we're going to do it in April. I'm a very superstitious person. April 2nd, reciprocal tariffs kick in. And whatever they tariff us — other countries — we will tariff them. That's reciprocal, back and forth. (Applause.) Whatever they tax us, we will tax them.

If they do non-monetary tariffs to keep us out of their market, then we will do non-monetary barriers to keep them out of our market. There's a lot of that too. They don't even allow us in their market.

We will take in trillions and trillions of dollars and create jobs like we have never seen before. I did it with China, and I did it with others. And the Biden administration couldn't do anything about it because it was so much money. They couldn't do anything about it. We have been ripped off for decades by nearly every country on Earth, and we will not let that happen any longer. (Applause.)

Much has been said over the last three months about Mexico and Canada, but we have very large deficits with both of them. But even more importantly, they have allowed fentanyl to come into our country at levels never seen before, killing hundreds of thousands of our citizens and many very young, beautiful people — destroying families. Nobody has ever seen anything like it.

They are, in effect, receiving subsidies of hundreds of billions of dollars. We pay subsidies to Canada and to Mexico of hundreds of billions of dollars. And the United States will not be doing that any longer. We're not going to do it any longer. (Applause.)

Thanks to our America First policies we're putting into place, we have had \$1.7 trillion of new investment in America in just the past few weeks. (Applause.) The combination of the election and our economic policies — the people of SoftBank, one of the most brilliant anywhere in the world, announced a \$200 billion investment. OpenAI and Oracle — Larry Ellison — announced \$500 billion investment, which they wouldn't have done if Kamala had won. (Applause.)

Apple announced \$500 billion investment. Tim Cook called me. He said, "I cannot spend it fast enough." It's going to be much higher than that, I believe. They'll be building their plants here, instead of in China.

And just yesterday, Taiwan Semiconductor — the biggest in the world, most powerful in the world, has a tremendous amount — 97 percent of the market, announced a \$165 billion investment to build the most powerful chips on Earth right here in the USA. (Applause.)

And we're not giving them any money. Your CHIPS Act is a horrible, horrible thing. We give hundreds of billions of dollars, and it doesn't mean a thing. They take our money, and they don't spend it. All that meant to them — we're giving them no money. All that was important to them was they didn't want to pay the tariffs, so they came and they're building. And many other companies are coming.

We don't have to give them money. We just want to protect our businesses and our people. And they will come because they won't have to pay tariffs if they build in America. And so, it's very amazing.

You should get rid of the CHIP Act. And whatever is left over, Mr. Speaker, you should use it to reduce debt or any other reason you want to. (Applause.)

Our new trade policy will also be great for the American farmer — I love the farmer — (applause) — who will now be selling into our home market, the USA, because nobody is going to be able to compete with you. Because those goods that come in from other countries and companies, they're really, really in a bad position in so many different ways. They're uninspected. They may be very dirty and disgusting, and they come in and they pour in, and they hurt our American farmers.

The tariffs will go on agricultural product coming into America. And our farmers, starting on April 2nd — it may be a little bit of an adjustment period. We had that before, when I made the deal with China. Fifty billion dollars of purchases, and I said, "Just bear with me," and they did. They did. Probably have to bear with me again, and this will be even better.

That was great. The problem with it was that Biden didn't enforce it. He didn't enforce it. Fifty billion dollars of purchases, and we were doing great, but Biden did not enforce it. And it hurt our farmers, but our farmers are going to have a field day right now. So, to our farmers, have a lot of fun. I love you too. I love you too. (Applause.) It's all going to happen.

And I have also imposed a 25 percent tariff on foreign aluminum, copper, lumber, and steel, because if we don't have, as an example, steel and lots of other things, we don't have a military and, frankly, we just won't have a country very long.

Here today is a proud American steelworker, fantastic person from Decatur, Alabama. Jeff Denard has been working at the same steel plant for 27 years in a job that has allowed him to serve as the captain of his local volunteer fire department; raise seven children with his beautiful wife, Nicole; and over the years, provide a loving home for more than 40 foster children. So great, Jeff. (Applause.)

Thank you, Jeff. Thank you, Jeff. (Applause.)

Stories like Jeff's remind us that tariffs are not just about protecting American jobs. They're about protecting the soul of our country. Tariffs are about making America rich again and making America great again. And it's happening, and it will happen rather quickly.

There will be a little disturbance, but we're okay with that. It won't be much.

AUDIENCE MEMBER: No, we're not!

THE PRESIDENT: No, you're not. Oh. (Laughter.)

And look — and look where Biden took us. Very low. The lowest we've ever been. Jeff, I want to thank you very much.

And I also want to recognize another person who has devoted herself to foster care community. She worked so hard on it. A very loving person. Our magnificent first lady of the United States. (Applause.)

Melania's work has yielded incredible results, helping prepare our nation's future leaders as they enter the workforce.

Our first lady is joined by two impressive young women — very impressive: Haley Ferguson, who benefited from the first lady's Fostering the Future initiative and is poised to complete her education and become a teacher, and Elliston Berry, who became a victim of an illicit deepfake image produced by a peer. With Elliston's help, the Senate just passed the Take It Down Act —

This is so important. Thank you very much, John. John Thune, thank you. (Applause.) Stand up, John. Thank you, John. (Applause.) Thank you all very much. Thank you. And thank you to John Thune and the Senate. A great job.

— to criminalize the publication of such images online. This terrible, terrible thing. And once it passes the House, I look forward to signing that bill into law. Thank you.

And I'm going to use that bill for myself too, if you don't mind — (laughter) — because nobody gets treated worse than I do online. Nobody. (Laughter.)

That's great. Thank you very much to the Senate. Thank you.

But if we truly care about protecting America's children, no step is more crucial than securing America's borders. Over the past four years, 21 million people poured into the United States. Many of them were murderers, human traffickers, gang members, and other criminals from the streets of dangerous cities all throughout the world.

Because of Joe Biden's insane and very dangerous open border policies, they are now strongly embedded in our country, but we are getting them out and getting them out fast. (Applause.)

And I want to thank Tom Homan. And, Kristi, I want to thank you. And Paul of Border Patrol, I want to thank you. What a job they've all done. Everybody. Border Patrol, ICE. Law enforcement, in general, is incredible. We have to take care of our law enforcement. (Applause.) We have to.

Last year, a brilliant 22-year-old nursing student named Laken Riley — the best in her class, admired by everybody — went out for a jog on the campus of the University of Georgia. That morning, Laken was viciously attacked, assaulted, beaten, brutalized, and horrifically murdered. Laken was stolen from us by a savage illegal alien gang member who was arrested while trespassing across Biden's open southern border and then set loose into the United States under the heartless policies of that failed administration. It was indeed a failed administration.

He had then been arrested and released in a Democrat-run sanctuary city — a disaster — before ending the life of this beautiful young angel.

With us this evening are Laken's beloved mother, Allyson, and her sister, Lauren. (Applause.)

Last year, I told Laken's grieving parents that we would ensure their daughter would not have died in vain. That's why the very first bill I signed into law as your 47th president mandates the detention of all dangerous criminal aliens who threaten public safety. It's a very strong, powerful act. (Applause.) It's called the Laken Riley Act. (Applause.)

So, Allyson and Lauren, America will never, ever forget our beautiful Laken Hope Riley. (Applause.)

Thank you very much.

Since taking office, my administration has launched the most sweeping border and immigration crackdown in American history, and we quickly achieved the lowest numbers of illegal border crossers ever recorded. Thank you. (Applause.)

The media and our friends in the Democrat Party kept saying we needed new legislation. “We must have legislation to secure the border.” But it turned out that all we really needed was a new president. (Applause.)

AUDIENCE: Trump! Trump! Trump!

THE PRESIDENT: Thank you.

Joe Biden didn’t just open our borders. He flew illegal aliens over them to overwhelm our schools, hospitals, and communities throughout the country. Entire towns, like Aurora, Colorado, and Springfield, Ohio, buckled under the weight of the migrant occupation and corruption like nobody has ever seen before. Beautiful towns destroyed.

Now, just as I promised in my Inaugural Address, we are achieving the great liberation of America. (Applause.)

But there still is much work to be done.

Here tonight is a woman I have gotten to know: Alexis Nungaray from Houston.

Wonderful woman. Last June, Alexis’s 12-year-old daughter, her precious Jocelyn, walked to a nearby convenience store. She was kidnapped, tied up, assaulted for two hours under a bridge, and horrifically murdered. Arrested and charged with this heinous crime are two illegal alien monsters from Venezuela, released into America by the last administration through their ridiculous open border.

The death of this beautiful 12-year-old girl and the agony of her mother and family touched our entire nation greatly.

Alexis, I promised that we would always remember your daughter — your magnificent daughter. And earlier tonight, I signed an order keeping my word to you.

One thing I have learned about Jocelyn is that she loved animals so much. She loved nature. Across Galveston Bay from where Jocelyn lived in Houston, you will find a magnificent national wildlife refuge. A pristine, peaceful, 34,000-acre sanctuary for all of God’s creatures on the edge of the Gulf of America.

Alexis, moments ago, I formally renamed that refuge in loving memory of your beautiful daughter, Jocelyn.

So, Mr. Vice President, if you would, may I have the order? (Applause.)

(The president holds up the executive order.)

Thank you very much.

All three savages charged with Jocelyn and Laken's murders were members of the Venezuelan prison gang — the toughest gang, they say, in the world — known as Tren de Aragua. Two weeks ago, I officially designated this gang, along with MS-13 and the bloodthirsty Mexican drug cartels, as foreign terrorist organizations. (Applause.) They are now officially in the same category as ISIS, and that's not good for them.

Countless thousands of these terrorists were welcomed into the U.S. by the Biden administration, but now every last one will be rounded up and forcibly removed from our country, or, if they're too dangerous, put in jails, standing trial in this country, because we don't want them to come back ever.

With us this evening is a warrior on the front lines of that battle, Border Patrol agent Roberto Ortiz. Great guy. (Applause.)

In January, Roberto and another agent were patrolling by the Rio Grande, near an area known as Cartel Island — doesn't sound too nice to me — when heavily armed gunmen started shooting at them. Roberto saw that his partner was totally exposed, in great danger, and he leapt into action, returning fire and providing crucial seconds for his fellow agent to seek safety, and just barely. I have some of the prints of that event, and it was not good.

Agent Ortiz, we salute you for your great courage and for your line of fire that you took and for the bravery that you showed. We honor you, and we will always honor you.

Thank you, Roberto, very much. (Applause.) Thank you, Roberto.

And I actually got to know him on my many calls to the border. He's a great, great gentleman.

The territory to the immediate south of our border is now dominated entirely by criminal cartels that murder, rape, torture, and exercise total control — they have total control over a whole nation — posing a grave threat to our national security. The cartels are waging war in America, and it's time for America to wage war on the cartels, which we are doing. (Applause.)

Five nights ago, Mexican authorities, because of our tariff policies being imposed on them — think of this — handed over to us 29 of the biggest cartel leaders in their country. That has never happened before. They want to make us happy. (Applause.) First time ever.

But we need Mexico and Canada to do much more than they've done, and they have to stop the fentanyl and drugs pouring into the USA. They're going to stop it.

I have sent Congress a detailed funding request laying out exactly how we will eliminate these threats to protect our homeland and complete the largest deportation operation in American history, larger even than current record holder, President Dwight D. Eisenhower, a moderate man but someone who believed very strongly in borders. Americans expect Congress to send me this funding without delay so I can sign it into law.

So, Mr. Speaker, John Thune, both of you, I hope you're going to be able to do that. Mr. Speaker, thank you. Mr. Leader, thank you. Thank you very much. And let's get it to me. I'll sign it so fast, you won't even believe it. (Applause.)

And as we reclaim our sovereignty, we must also bring back law and order to our cities and towns. (Applause.) In recent years, our justice system has been turned upside down by radical-left lunatics. Many jurisdictions virtually ceased enforcing the law against dangerous repeat offenders while weaponizing law enforcement against political opponents like me.

My administration has acted swiftly and decisively to restore fair, equal, and impartial justice under the constitutional rule of law, starting at the FBI and the DOJ.

Pam, good luck. Kash, wherever you may be, good luck. (Applause.) Good luck. Pam Bondi, good luck. So important. Going to do a great job. (Applause.)

Kash, thank you. Thank you, Kash. (Applause.)

They have already started very strong. They're going to do a fantastic job. You're going to be very proud of them.

We're also, once again, giving our police officers the support, protection, and respect they so dearly deserve. They have to get it. They have such a hard, dangerous job, but we're going to make it less dangerous. The problem is the bad guys don't respect the law, but they're starting to respect it, and they soon will respect it.

(Cross-talk.)

This also includes our great fire departments throughout the country. Our firemen and women are unbelievable people, and I will never forget them. And besides that, they voted for me in record numbers, so I have no choice. (Applause.)

One year ago this month, 31-year-old New York police officer Jonathan Diller — unbelievably wonderful person and a great officer — was gunned down at a traffic stop

on Long Island. I went to his funeral. The vicious criminal charged with his murder had 21 prior arrests, and they were rough arrests too. He was a real bad one.

The thug in the seat next to him had 14 prior arrests and went by the name of “Killer.” He was Killer. He killed other people. They say a lot of them.

I attended Officer Diller’s service, and when I met his wife and one-year-old son, Ryan, it was very inspirational, actually. His widow’s name is Stephanie, and she is here tonight. Stephanie, thank you very much, Stephanie. Thank you very much. (Applause.)

Stephanie, we’re going to make sure that Ryan knows his dad was a true hero — New York’s Finest. And we’re going to get these cold-blooded killers and repeat offenders off our streets, and we’re going to do it fast. Got to stop it.

They get out with 28 arrests. They push people into subway trains. They hit people over the back of the head with baseball bats. We got to get them out of here.

I’ve already signed an executive order requiring a mandatory death penalty for anyone who murders a police officer. And, tonight, I’m asking Congress to pass that policy into permanent law. (Applause.)

I’m also asking for a new crime bill, getting tough on repeat offenders while enhancing protections for America’s police officers so they can do their jobs without fear of their lives being totally destroyed. They don’t want to be killed. We’re not going to let them be killed.

Joining us in the gallery tonight is a young man who truly loves our police. His name is D.J. Daniel. He is 13 years old, and he has always dreamed of becoming a police officer. (Applause.)

But in 2018, D.J. was diagnosed with brain cancer. The doctors gave him five months at most to live. That was more than six years ago. (Applause.)

Since that time, D.J. and his dad have been on a quest to make his dream come true, and D.J. has been sworn in as an honorary law enforcement officer, actually, a number of times. Pec- — the police love him. The police departments love him.

And tonight, D.J., we’re going to do you the biggest honor of them all. I am asking our new Secret Service director, Sean Curran, to officially make you an agent of the United States Secret Service. (Applause.)

(Director Curran presents Mr. Daniel with a Secret Service Agent credential.)

AUDIENCE: D.J.! D.J.! D.J.!

THE PRESIDENT: Thank you, D.J.

D.J.'s doctors believe his cancer likely came from a chemical he was exposed to when he was younger. Since 1975, rates of child cancer have increased by more than 40 percent. Reversing this trend is one of the top priorities for our new presidential commission to make America healthy again, chaired by our new secretary of Health and Human Services, Robert F. Kennedy, Jr. (Applause.)

AUDIENCE MEMBER: MAHA, baby!

THE PRESIDENT: With the name "Kennedy," you would have thought everybody over here would have been cheering. (Laughter.) How quickly they forget.

Our goal is to get toxins out of our environment, poisons out of our food supply, and keep our children healthy and strong.

As an example, not long ago — you can't even believe these numbers — 1 in 10,000 children had autism. 1 in 10,000. And now it's 1 in 36. There's something wrong. One in 36. Think of that.

So, we're going to find out what it is, and there's nobody better than Bobby and all of the people that are working with you — you have the best — to figure out what is going on. Okay, Bobby? Good luck. It's a very important job. Thank you. (Applause.) Thank you. Thank you.

My administration is also working to protect our children from toxic ideologies in our schools.

A few years ago, January Littlejohn and her husband discovered that their daughter's school had secretly socially transitioned their 13-year-old little girl. Teachers and administrators conspired to deceive January and her husband, while encouraging her daughter to use a new name and pronouns — "they/them" pronouns, actually — all without telling January, who is here tonight and is now a courageous advocate against this form of child abuse. January, thank you. Thank you. Thank you very much. (Applause.) Thank you. Thank you.

Stories like this are why, shortly after taking office, I signed an executive order banning public schools from indoctrinating our children with transgender ideology. (Applause.) I also signed an order to cut off all taxpayer funding to any institution that engages in the sexual mutilation of our youth. (Applause.) And now I want Congress to pass a bill permanently banning and criminalizing sex changes on children and forever ending the lie that any child is trapped in the wrong body. This is a big lie. (Applause.)

And our message to every child in America is that you are perfect exactly the way God made you. (Applause.)

Because we're getting wokeness out of our schools and out of our military, and it's already out, and it's out of our society. We don't want it. Wokeness is trouble. Wokeness is bad. It's gone. It's gone. And we feel so much better for it, don't we? Don't we feel better? (Applause.)

Our service members won't be activists and ideologues. They will be fighters and warriors. They will fight for our country.

And, Pete, congratulations. Secretary of Defense, congratulations. (Applause.)

And he's not big into the woke movement, I can tell you. (Laughter.) I know him well.

I am pleased to report that, in January, the U.S. Army had its single best recruiting month in 15 years and that all armed services are having among the best recruiting results ever in the history of our services. (Applause.) What a difference.

And you know it was just a few months ago where the results were exactly the opposite. We couldn't recruit anywhere. We couldn't recruit. Now we're having the best results, just about, that we've ever had. What a tremendous turnaround. It's really a beautiful thing to see. People love our country again. It's very simple. They love our country, and they love being in our military again. So, it's a great thing. And thank you very much. Great job. Thank you. (Applause.)

We're joined tonight by a young man, Jason Hartley, who knows the weight of that call of duty. Jason's father, grandfather, and great-grandfather all wore the uniform.

Jason tragically lost his dad, who was also a Los Angeles County sheriff's deputy, when he was just a boy, and now he wants to carry on the family legacy of service. Jason is a senior in high school, a six-letter varsity athlete — a really good athlete, they say — a brilliant student, with a 4.46 — that's good — GPA. (Laughter.) And his greatest dream is to attend the U.S. Military Academy at West Point. (Applause.)

And, Jason, that's a very big deal getting in. That's a hard one to get into. But I'm pleased to inform you that your application has been accepted. You will soon be joining the Corps of Cadets. (Applause.)

Thank you. Jason, you're going to be on the Long Gray Line, Jason.

As commander in chief, my focus is on building the most powerful military of the future. As a first step, I'm asking Congress to fund a state-of-the-art Golden Dome missile defense shield to protect our homeland, all made in the USA. (Applause.)

And Ronald Reagan wanted to do it long ago, but the technology just wasn't there, not even close. But now we have the technology. It's incredible, actually. And other places, they have it: Israel has it. Other places have it. And the United States should have it too. Right, Tim? Right? (Applause.) They should have it too. So, I want to thank you.

But it's a very important. This is a very dangerous world. We should have it. We want to be protected. And we're going to protect our citizens like never before.

To boost our defense industrial base, we are also going to resurrect the American shipbuilding industry, including commercial shipbuilding and military shipbuilding. (Applause.)

And for that purpose, I am announcing tonight that we will create a new Office of Shipbuilding in the White House and offer special tax incentives to bring this industry home to America, where it belongs.

We used to make so many ships. We don't make them anymore very much, but we're going to make them very fast, very soon. It will have a huge impact.

To further enhance our national security, my administration will be reclaiming the Panama Canal, and we've already started doing it. (Applause.)

Just today, a large American company announced they are buying both ports around

the Panama Canal and lots of other things having to do with the Panama Canal and a couple of other canals.

The Panama Canal was built by Americans for Americans, not for others, but others could use it. But it was built at tremendous cost of American blood and treasure. Thirty-eight thousand workers died building the Panama Canal. They died of malaria. They died of snake bites and mosquitoes. Not a nice place to work. They paid them very highly to go there, knowing there was a 25 percent chance that they would die. The most expensive project, also, that was ever built in our country's history, if you bring it up to modern-day costs.

It was given away by the Carter administration for \$1, but that agreement has been violated very severely. We didn't give it to China. We gave it to Panama, and we're taking it back. (Applause.)

And we have Marco Rubio in charge. Good luck, Marco. (Laughter and applause.) Now we know who to blame if anything goes wrong. (Laughter.) No, Marco has been amazing, and he's going to do a great job. Think of it. He got a hundred votes. (Applause.) You know, he was approved with, actually, 99, but the 100th was this gentleman, and I feel very certain — so, let's assume he got 100 votes. And I'm either very, very happy about that or I'm very concerned about it. (Laughter.)

But he's already proven — I mean, he's a great gentleman. He's respected by everybody. And we appreciate you voting for Marco. He's going to do a fantastic job. Thank you. (Applause.) Thank you. He's doing a great job. Great job.

And I also have a message tonight for the incredible people of Greenland. (Laughter.) We strongly support your right to determine your own future, and, if you choose, we welcome you into the United States of America.

We need Greenland for national security and even international security, and we're working with everybody involved to try and get it. But we need it, really, for international world security. And I think we're going to get it. One way or the other, we're going to get it.

We will keep you safe. We will make you rich. And together, we will take Greenland to heights like you have never thought possible before.

It's a very small population but very, very large piece of land and very, very important for military security.

America is once again standing strong against the forces of radical Islamic terrorism.

Three and a half years ago, ISIS terrorists killed 13 American service members and countless others in the Abbey Gate bombing during the disastrous and incompetent withdrawal from Afghanistan — not that they were withdrawing; it was the way they withdrew. Perhaps the most embarrassing moment in the history of our country.

Tonight, I am pleased to announce that we have just apprehended the top terrorist responsible for that atrocity, and he is right now on his way here to face the swift sword of American justice. (Applause.)

And I want to thank, especially, the government of Pakistan for helping arrest this monster.

This was a very momentous day for those 13 families, who I actually got to know very well, most of them, whose children were murdered, and the many people that were so badly — over 42 people — so badly injured on that fateful day in Afghanistan. What a horrible day. Such incompetence was shown that when Putin saw what happened, I guess he said, “Wow, maybe this is my chance.” That's how bad it was. Should have never happened. Grossly incompetent people.

I spoke to many of the parents and loved ones, and they're all in our hearts tonight. Just spoke to them on the phone. We had a big call. Every one of them called, and everybody was on the line, and they did nothing but cry with happiness. They were very happy — as happy as you can be under those circumstances. Their child, brother, sister, son, daughter was killed for no reason whatsoever.

In the Middle East, we're bringing back our hostages from Gaza. In my first term, we

achieved one of the most groundbreaking peace agreements in generations: the Abraham Accords. (Applause.)

And now we're going to build on that foundation to create a more peaceful and prosperous future for the entire region. A lot of things are happening in the Middle East. People haven't been talking about that so much lately with everything going on with Ukraine and Russia, but a lot of things are happening in the Middle East. It's a rough neighborhood, actually.

I'm also working tirelessly to end the savage conflict in Ukraine. Millions of Ukrainians and Russians have been needlessly killed or wounded in this horrific and brutal conflict with no end in sight.

The United States has sent hundreds of billions of dollars to support Ukraine's defense with no security, with no anything. (Applause.)

Do you want to keep it going for another five years?

SENATOR WARREN: Yes!

THE PRESIDENT: Yeah. Yeah, you would say — Pocahontas says, "Yes." (Laughter.)

AUDIENCE MEMBERS: Booo —

THE PRESIDENT: Two thousand people are being killed every single week — more than that. They're Russian young people. They're Ukrainian young people. They're not Americans. But I want it to stop.

Meanwhile, Europe has sadly spent more money buying Russian oil and gas than they have spent on defending Ukraine, by far. Think of that. They've spent more buying Russian oil and gas than they have defending. And we've spent, perhaps, \$350 billion. Like taking candy from a baby, that's what happened. And they've spent \$100 billion. What a difference that is. And we have an ocean separating us, and they don't.

But we're getting along very well with them, and lots of good things are happening.

Biden has authorized more money in this fight than Europe has spent by billions and billions of dollars. It's hard to believe that they wouldn't have stopped it and said, at some point, "Come on. Let's equalize. You got to be equal to us." But that didn't happen.

Earlier today, I received an important letter from President Zelenskyy of Ukraine. The letter reads, "Ukraine is ready to come to the negotiating table as soon as possible to bring lasting peace closer." "Nobody wants peace more than the Ukrainians," he said. (Applause.) "My team and I stand ready to work under President Trump's strong leadership to get a peace that lasts. We do really value how much America has done to help Ukraine maintain its sovereignty and independence. Regarding the agreement on minerals and security, Ukraine is ready to sign it at any time that is convenient for you."

I appreciate that he sent this letter. Just got it a little while ago.

Simultaneously, we've had serious discussions with Russia and have received strong signals that they are ready for peace. Wouldn't that be beautiful? Wouldn't that be beautiful? (Applause.) Wouldn't that be beautiful?

It's time to stop this madness. It's time to halt the killing. It's time to end this senseless war. If you want to end wars, you have to talk to both sides.

Nearly four years ago, amid rising tensions, a history teacher named Marc Fogel was detained in Russia and sentenced to 14 years in a penal colony. Rough stuff.

The previous administration barely lifted a finger to help him. They knew he was innocent, but they had no idea where to begin. But last summer, I promised his 95-year-old mother, Malphine, that we would bring her boy safely back home.

After 22 days in office, I did just that, and they are here tonight. (Applause.)

To Marc and his great mom, we are delighted to have you safe and sound and with us.

As fate would have it, Marc Fogel was born in a small, rural town — in Butler,

Pennsylvania — have you heard of it? — where his mother has lived for the past 78 years.

I just happened to go there last July 13th for a rally. That was not pleasant. (Laughter.) And that is where I met his beautiful mom, right before I walked onto that stage. And I told her I would not forget what she said about her son. And I never did, did I? Never forgot.

Less than 10 minutes later, at that same rally, gunfire rang out, and a sick and deranged assassin unloaded eight bullets from his sniper's perch into a crowd of many thousands of people.

My life was saved by a fraction of an inch, but some were not so lucky. Corey Comperatore was a firefighter, a veteran, a Christian, a husband, a devoted father, and, above all, a protector.

When the sound of gunshots pierced the air — it was a horrible sound — Corey knew instantly what it was and what to do. He threw himself on top of his wife and daughters and shielded them from the bullets with his own body.

Corey was hit really hard. You know the story from there. He sacrificed his life to save theirs.

Two others — very fine people — were also seriously hit. But thankfully, with the help of two great country doctors, we thought they were gone, and they were saved. So, those doctors had great talent.

We're joined by Corey's wife, Helen, who was his high school sweetheart, and their two beloved daughters, Allyson and Kaylee. Thank you. (Applause.)

To Helen, Allyson, and Kaylee, Corey is looking down on his three beautiful ladies right now, and he is cheering you on. He loves you. He is cheering you on.

Corey was taken from us much too soon, but his destiny was to leave us all with a shining example of the selfless devotion of a true American patriot. It was love like

Corey's that built our country, and it's love like Corey's that is going to make our country more majestic than ever before.

I believe that my life was saved that day in Butler for a very good reason. I was saved by God to make America great again. I believe that. (Applause.) Thank you.

Thank you. Thank you very much.

From the patriots of Lexington and Concord to the heroes of Gettysburg and Normandy, from the warriors who crossed the Delaware to the trailblazers who climbed the Rockies, and from the legends who soared at Kitty Hawk to the astronauts who touched the Moon, Americans have always been the people who defied all odds, transcended all dangers, made the most extraordinary sacrifices, and did whatever it took to defend our children, our country, and our freedom.

And as we have seen in this chamber tonight, that same strength, faith, love, and spirit is still alive and thriving in the hearts of the American people. Despite the best efforts of those who would try to censor us, silence us, break us, destroy us, Americans are today a proud, free, sovereign, and independent nation that will always be free, and we will fight for it till death.

We will never let anything happen to our beloved country, because we are a country of doers, dreamers, fighters, and survivors.

Our ancestors crossed a vast ocean, strode into the unknown wilderness, and carved their fortunes from the rock and soil of a perilous and very dangerous frontier. They chased our destiny across a boundless continent. They built the railroads, laid the highways, and graced the world with American marvels, like the Empire State Building, the mighty Hoover Dam, and the towering Golden Gate Bridge.

They lit the world with electricity, broke free of the force of gravity, fired up the engines of American industry, vanquished the communists, fascists, and Marxists all over the world, and gave us countless modern wonders sculpted out of iron, glass, and steel.

We stand on the shoulders of these pioneers who won and built the modern age, these workers who poured their sweat into the skylines of our cities, these warriors who shed their blood on fields of battle and gave everything they had for our rights and for our freedom.

Now it is our time to take up the righteous cause of American liberty, and it is our turn to take America's destiny into our own hands and begin the most thrilling days in the history of our country.

This will be our greatest era.

With God's help, over the next four years, we are going to lead this nation even higher, and we are going to forge the freest, most advanced, most dynamic, and most dominant civilization ever to exist on the face of this Earth.

We are going to create the highest quality of life, build the safest and wealthiest and healthiest and most vital communities anywhere in the world.

We are going to conquer the vast frontiers of science, and we are going to lead humanity into space and plant the American flag on the planet Mars and even far beyond. (Applause.)

And, through it all, we are going to rediscover the unstoppable power of the American spirit, and we are going to renew unlimited promise of the American dream.

Every single day, we will stand up and we will fight, fight, fight for the country our citizens believe in and for the country our people deserve. (Applause.) Thank you. Thank you.

AUDIENCE MEMBERS: Fight! Fight! Fight!

THE PRESIDENT: My fellow Americans, get ready for an incredible future, because the golden age of America has only just begun. It will be like nothing that has ever been

seen before.

Thank you. God bless you. And God bless America. (Applause.)

Thank you. Thank you, everybody. Thank you. Thank you very much. Thank you very much. Thank you.

Thank you very much. Appreciate it.

Thank you very much.

END

11:00 P.M. EST

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EXHIBIT R-2



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Washington, D.C. 20201

SECRETARIAL DIRECTIVE ON DEI-RELATED FUNDING

February 10, 2025

The Department of Health and Human Services has an obligation to ensure that taxpayer dollars are used to advance the best interests of the government. This includes avoiding the expenditure of federal funds on programs, or with contractors or vendors, that promote or take part in diversity, equity, and inclusion (“DEI”) initiatives or any other initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic. Contracts and grants that support DEI and similar discriminatory programs can violate Federal civil rights law and are inconsistent with the Department’s policy of improving the health and well-being of all Americans.

These contracts and grants can cause serious programmatic failures and yet it is currently impossible to access sufficient information from a centralized source within the Department of Health and Human Services to assess them. Specifically, there is no one method to determine whether payments the agency is making to contractors, vendors, and grantees for functions related to DEI and similar programs are contributing to the serious problems and acute harms DEI initiatives may pose to the Department’s compliance with Federal civil rights law as well as the Department’s policy of improving the health and well-being of all Americans. It is also currently impossible to assess whether payments the Department is making are free from fraud, abuse, and duplication, as well as to assess whether current contractual arrangements, vendor agreements, and grant awards related to these functions are in the best interests of the United States. *See* FAR 12.403(b), 49.101; 45 C.F.R. § 75.371-372. Finally, it is also impossible to determine with current systems whether current contracts and grant awards are tailored to ameliorate these specific problems and the broader problem of DEI and similar programs rather than exacerbate them. The Department has an obligation to ensure that no taxpayer dollars are lost to abuse or expended on anything other than advancing the best interests of the nation.

For these reasons, pursuant to, among other authorities, FAR 12.403(b) and 49.101 and 45 C.F.R. § 75.371- 372, the Secretary of Health and Human Services hereby DIRECTS as follows:

Agency personnel shall briefly pause all payments made to contractors, vendors, and grantees related to DEI and similar programs for internal review for payment integrity. Such review shall include but not be limited to a review for fraud, waste, abuse, and a review of the overall contracts and grants to determine whether those contracts or grants are in the best interest of the government and consistent with current policy priorities. In addition, if after review the Department has determined that a contract is inconsistent with Department priorities and no longer in the interest of the government, such contracts may be terminated pursuant to the Department’s authority to terminate for convenience contracts that are not “in the best interests of the Government,” see FAR 49.101(b); 12.403(b). Furthermore, grants may be terminated in accordance with federal law.

This Directive shall be implemented through the Department's contracts and payment management systems by personnel with responsibility for such systems who shall, in doing so, comply with all notice and procedural requirements in each affected award, agreement, or other instrument. Whenever a DEI or similar contract or grant is paused for review, Department personnel shall immediately send such payment to Scott Rowell, Deputy Chief of Staff for Operations, for prompt review to determine whether or not the payment is appropriate and should be made. Payments on paused contracts shall remain paused and already terminated contracts shall remain terminated pending completion of that review to the maximum extent permitted by law and all applicable notice and procedural requirements in the affected award, agreement, or other instrument.

I thank you for your attention to this matter, as well as your efforts to ensure that no taxpayer dollars are misspent.

A handwritten signature in blue ink, reading "Dorothy A. Fink", is positioned above a horizontal line.

Dorothy A. Fink, M.D., Acting Secretary

EXHIBIT R-3



National Institutes of Health
Office of Extramural Research



Date: February 13, 2025

To: Institute and Center Chief Grants Management Officers (IC CGMOs)

From: Michael S. Lauer, MD **Michael S. Lauer -S** Digitally signed by Michael S. Lauer -S
Deputy Director for Extramural Research, National Institutes of Health (NIH)
Date: 2025.02.13 15:06:52 -05'00'

Michelle G. Bulls Michelle G. Bulls -S Digitally signed by Michelle G. Bulls -S
NIH Chief Grants Management Officer
Date: 2025.02.13 15:11:19 -05'00'

Subject: Supplemental Guidance to Memo Entitled- NIH Review of Agency Priorities Based on the New Administration's Goals

The Office of Extramural Research is issuing supplemental guidance to the memo, dated February 12, 2025, to Institute and Center (IC) Chief Grants Management Officers (CGMOs) and their respective staff to issue hard funding restrictions on awards and within the Payment Management System (PMS)/Program Support Center (PSC) on awards where the program promotes or takes part in diversity, equity, and inclusion ("DEI") initiatives or any other initiatives that discriminate on the basis of race, color, religion, sex, national origin, or any other protected characteristics. The restriction requirement applies to new and continuation awards made on or after February 14, 2025. If the sole purpose of the grant, cooperative agreement, other transaction award (including modifications), or supplement supports DEI activities, then the award must be fully restricted. The restrictions will remain in place until the agency conducts an internal review for payment integrity. Such review shall include, but not be limited to a review for fraud, waste, abuse, of all grants, cooperative agreements, and Other Transactions that determines the funding of the activities/program are in the best interest of the government and consistent with current policy priorities.

Attachments

1. Memo NIH Review of Agency Priorities Based on the New Administration's Goals, February 12, 2025
2. UPDATE - Temporary Restraining Order in State of New York et al. v. Trump et al., 1:25-cv-00039 (D.R.I.), February 12, 2025
3. Secretarial Directive on DEI Related Funding, February 10, 2025

EXHIBIT R-4

UPDATE: NIH reimposes "DEI" funding freeze despite court order

JUDD LEGUM

FEB 24, 2025



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A sign that reads "NIH Employees Only" stands near an entrance at the National Institute of Health on February 10, 2025 in Bethesda, Maryland.

(Photo by Alex Wong/Getty Images)

The National Institutes of Health (NIH) is still blocking most ongoing scientific funding over concerns about "diversity, equity and inclusion" (DEI), according

NIH sources and internal NIH correspondence. The freeze has continued even after top NIH officials [acknowledged](#) that continuing to block the funding would violate a federal court order.

Last month, the Trump administration issued a [memo](#), through the Office of Management and Budget (OMB), requiring federal agencies to "temporarily pause all activities related to obligation or disbursement of all Federal financial assistance," including "grants and loans." The purpose of the spending freeze was to ensure compliance with President Trump's executive orders prohibiting funding for "DEI," "woke gender ideology," and other topics.

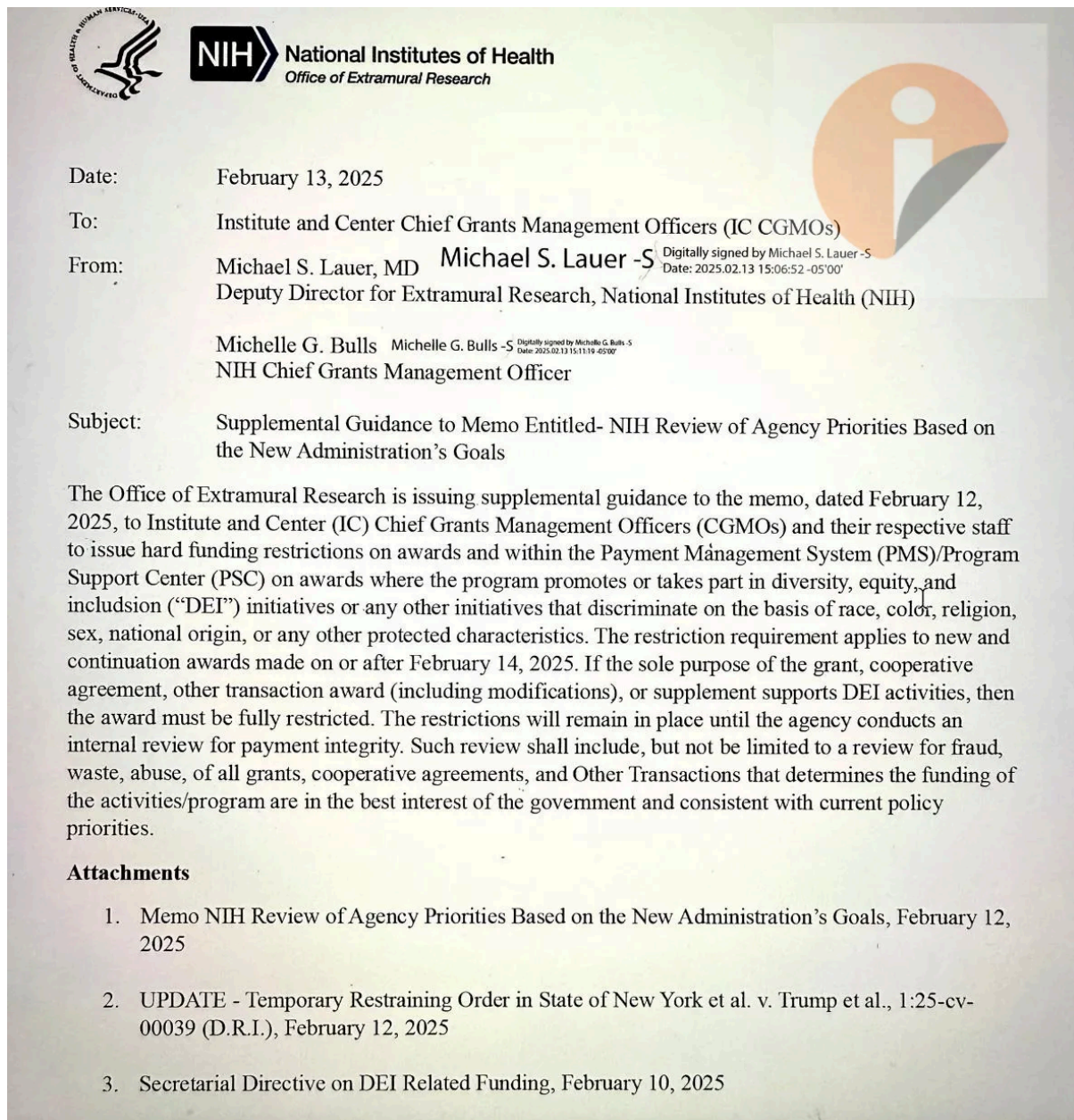
The directive was quickly challenged in federal court by a coalition of 22 states. The federal court issued a [temporary restraining order](#) (TRO) on January 31, which "restrained and prohibited" the Trump administration "from reissuing, adopting, implementing, or otherwise giving effect to the OMB Directive under any other name or title."

A [February 12 memo](#) by two top NIH officials, which was not released publicly but was obtained by Popular Information, acknowledged that the TRO prohibited the agency from freezing funding to implement Trump's executive order on DEI. "We recognize that NIH programs fall under [the] recently issued Temporary Restraining Order[]," the officials wrote and, therefore, "grant management staff can "proceed with issuing awards for all... grants."

That has not happened.

Another memo issued by the same officials on February 13, obtained by Popular Information through an NIH source, provided "supplemental guidance." The February 13 memo imposed "hard restrictions on awards... where the program promotes or takes part in [DEI] initiatives." The restrictions apply to "new and continuation awards made on or after February 14, 2025." The freeze will "rema

in place until the agency conducts a review" to determine whether "funding of activities/programs are... consistent with current policy priorities."



According to another NIH source, the agency conducted a keyword search to identify "DEI" grants. All funding for these grants has been frozen. Internally, NIH staff believes these grants may be canceled entirely, the source told Popular Information. Further, in some of the NIH's institutes and centers, according to internal NIH correspondence reviewed by Popular Information, *all* grants have

been frozen pending the creation of an anti-DEI language that can be added to applications. Thus far, the language has not been provided to grant management staff.

The freeze has impacted the funding of most continuing grants at NIH. These grants fund ongoing research, including many studies involving human subjects in clinical trials. Since Congress provides funding annually, these grants must be extended each year, but it is normally a routine administrative process.

Freezing this funding to implement the administration's DEI policies does not comply with the federal court's TRO. It also jeopardizes critical research on cancer treatments, heart disease prevention, stroke intervention, and other potentially life-saving topics.

David Moorman, a brain researcher and professor at the University of Massachusetts Amherst, has not had his annual grant renewed. It is now three weeks late. "At some point, our money will run out and if it doesn't get renewed we will have to start firing people in my lab and this research will die," [Moorman told the Boston Globe](#).

From February 1, 2025, to February 12, 2025, there was a total freeze on the issuance of continuing grants, according to [publicly reported data](#). After the issuance of the February 12 memo, some continuing grants have been funded. Between February 13, 2025, and February 22, 2025, there were 335 continuing grants issued with a

total value of \$200,235,780. However, the data shows that most continuing grants are still being blocked. Over the same nine-day period in 2024, there were 823 grants issued with a total value of \$484,709,831.

Funding for continuing grants administered by the National Cancer Institute has dropped from \$162 million between February 1, 2024, and February 22, 2024, to \$100 million over the same period this year.

We started a new publication, Musk Watch. NPR covered our launch [HERE](#). It features accountability journalism focused on one of the most powerful humans in history. It is free to sign up, so we hope you'll give it a try and let us know what you think.

How the administration is blocking all new NIH grants

For a new grant to be issued by the NIH, it must be approved by a committee of scientists, doctors, and other reviewers. Each year there are "[about 2,600 meetings involving some 28,000](#)" experts that review and approve grants.

Before a meeting can take place, however, there must be a notice published in the Federal Register at least [15 days in advance](#). The Trump administration has completely halted the issuance of new grants by blocking the NIH from posting new notices in the Federal Register. Already, the move "has stalled about 16,000 grant applications vying for around \$1.5 billion" in funding, an NIH source [told NPR](#).

No [NIH-related meetings](#) "have been posted to the Federal Register since January 21, the day after Trump's inauguration." The only meetings that have occurred

were those that were posted before Trump took office. The administration has explained why it is blocking notices or when the policy might be lifted.

For example, Robert W. Sobol, a Brown University researcher, was [informed](#) that "scheduled review of his application for a National Institutes of Health grant to research ways to treat brain cancer was abruptly postponed last week, with no word from NIH on why or when the meeting might be rescheduled." Carole LaBonne, a molecular biosciences professor at Northwestern University whose grants are also impacted by the meeting cancellations, said that if the meetings not resume soon, "[the effects are going to be catastrophic](#)."

David Super, a professor at Georgetown University Law Center and an expert on administrative law, said the blockade of funding of new grants is illegal. "It is accomplishing what they've been ordered by the courts not to accomplish, which is a funding freeze," Super [said](#).

The purpose of the TRO, Super explained, is to stop the funding freeze. Finding new ways to impose the same policy, as the Trump administration appears to be doing, is not compliance.

EXHIBIT R-5

Staff Guidance –Award Assessments for Alignment with Agency Priorities - March 2025

Background

This staff guidance rescinds the guidance provided in the February 13, 2025, memo to IC Chief Grants Management Officers entitled Supplemental Guidance – NIH Review of Agency Priorities Based on the New Administration’s Goals. In accordance with the Secretarial Directive on DEI Related Funding (Appendix 1), NIH will no longer prioritize research and research training programs that focus on Diversity, Equity and Inclusion (DEI). Terminations that result from science that no longer effectuates NIH’s priorities must follow the appeals guidance below. All other terminations for noncompliance require, always, [appeal language](#).

Prior to issuing all awards (competing and non-competing) or approving requests for carryover, ICs must review the specific aims assess whether the proposed project contains any DEI research activities or DEI language that give the perception that NIH funds can be used to support these activities. To avoid issuing awards, in error, that support DEI activities ICs must take care to completely excise all DEI activities using the following categories.

Category 1: The sole purpose of the project is DEI related (e.g., diversity supplements or conference grant where the purpose of the meeting is diversity), and/or the application was received in response to a NOFO that was unpublished as outlined above.

- Action: ICs must not issue the award.

Category 2: Project partially supports DEI activities (i.e., the project may still be viable if those aims or activities are negotiated out, without significant changes from the original peer-reviewed scope) this means DEI activities are ancillary to the purpose of the project. In some cases, not readily visible. This category requires a scientific assessment and requires the GM to use the DEI Restriction Term of Award in Section IV of the Notice of Award, no exceptions will be allowed without a deviation from the Office of Policy for Extramural Research Administration (OPERA)/Office of Extramural Research (OER).

- Action 1: Funding IC must negotiate with the applicant/recipient to address the activities that are non-compliant, along with the associated funds that support those activities, obtain revised aims and budgets, and document the changes in the grant file.
- Action 2: Once the IC and the applicant/recipient have reached an agreement, issue the award and include the DEI Term and Condition of Award in Section IV of the Notice of Award. Hard funds restrictions are not required.
 - **Note:** If the IC and the applicant/recipient cannot reach an agreement, or the project is no longer viable without the DEI related activities, the IC cannot proceed with the award. For ongoing projects, the IC must work with OPERA to negotiate a bilateral termination of the project. Where bilateral termination cannot be reached, the IC must unilaterally terminate the project. Terminated awards (bilaterally or unilaterally) should follow the process identified in [Appendix 2](#).

Category 3: Project does not support DEI activities, but may contain language related to DEI (e.g., statement regarding institutional commitment to diversity in the ‘Facilities & Other Resources’ attachment and terminology related to structural racism—this is not all-inclusive).

- Action 1: Funding IC must request an updated application/RPPR with the DEI language removed.
- Action 2: Once the language has been removed, the IC may proceed with issuing the award.

Category 4: Project does not support any DEI activities

- Action: IC may proceed with issuing the award.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Washington, D.C. 20201

SECRETARIAL DIRECTIVE ON DEI-RELATED FUNDING

February 10, 2025

The Department of Health and Human Services has an obligation to ensure that taxpayer dollars are used to advance the best interests of the government. This includes avoiding the expenditure of federal funds on programs, or with contractors or vendors, that promote or take part in diversity, equity, and inclusion (“DEI”) initiatives or any other initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic. Contracts and grants that support DEI and similar discriminatory programs can violate Federal civil rights law and are inconsistent with the Department’s policy of improving the health and well-being of all Americans.


These contracts and grants can cause serious programmatic failures and yet it is currently impossible to access sufficient information from a centralized source within the Department of Health and Human Services to assess them. Specifically, there is no one method to determine whether payments the agency is making to contractors, vendors, and grantees for functions related to DEI and similar programs are contributing to the serious problems and acute harms DEI initiatives may pose to the Department’s compliance with Federal civil rights law as well as the Department’s policy of improving the health and well-being of all Americans. It is also currently impossible to assess whether payments the Department is making are free from fraud, abuse, and duplication, as well as to assess whether current contractual arrangements, vendor agreements, and grant awards related to these functions are in the best interests of the United States. *See* FAR 12.403(b), 49.101; 45 C.F.R. § 75.371-372. Finally, it is also impossible to determine with current systems whether current contracts and grant awards are tailored to ameliorate these specific problems and the broader problem of DEI and similar programs rather than exacerbate them. The Department has an obligation to ensure that no taxpayer dollars are lost to abuse or expended on anything other than advancing the best interests of the nation.

For these reasons, pursuant to, among other authorities, FAR 12.403(b) and 49.101 and 45 C.F.R. § 75.371- 372, the Secretary of Health and Human Services hereby DIRECTS as follows:

Agency personnel shall briefly pause all payments made to contractors, vendors, and grantees related to DEI and similar programs for internal review for payment integrity. Such review shall include but not be limited to a review for fraud, waste, abuse, and a review of the overall contracts and grants to determine whether those contracts or grants are in the best interest of the government and consistent with current policy priorities. In addition, if after review the Department has determined that a contract is inconsistent with Department priorities and no longer in the interest of the government, such contracts may be terminated pursuant to the Department’s authority to terminate for convenience contracts that are not “in the best interests of the Government,” see FAR 49.101(b); 12.403(b). Furthermore, grants may be terminated in accordance with federal law.

This Directive shall be implemented through the Department's contracts and payment management systems by personnel with responsibility for such systems who shall, in doing so, comply with all notice and procedural requirements in each affected award, agreement, or other instrument. Whenever a DEI or similar contract or grant is paused for review, Department personnel shall immediately send such payment to Scott Rowell, Deputy Chief of Staff for Operations, for prompt review to determine whether or not the payment is appropriate and should be made. Payments on paused contracts shall remain paused and already terminated contracts shall remain terminated pending completion of that review to the maximum extent permitted by law and all applicable notice and procedural requirements in the affected award, agreement, or other instrument.

I thank you for your attention to this matter, as well as your efforts to ensure that no taxpayer dollars are misspent.



Dorothy A. Fink, M.D., Acting Secretary

Appendix 2 – Guidance for staff to use when terminating awards identified by HHS or the IC.

- Issue a revised NOA.
 - Change the budget and project period end dates to match the date of the termination letter.
 - Check PMS, determine amount of funds remaining, and deobligate the amount reflected in PMS when revising the NOA. Note: This applies to Multi-Year Funded Awards, as well. Work with FFR-C if you have questions regarding deobligating funds to avoid placing the recipient in debt collection.
 - Remove all future years from the project, where applicable. If the grant is in a no cost extension, and the HHS requests a termination, the project must be terminated
 - Use the following termination term: This award related to [select the appropriate example relevant to your project by choosing one of the highlighted examples DEI, China, or Transgender issues] no longer effectuates agency priorities. It is the policy of NIH not to further prioritize these research programs. Therefore, the award is terminated. [Refer to Appendix 3 for language provided to NIH by HHS.] Please be advised that your organization, as part of the orderly closeout process will need to submit the necessary closeout documents (i.e., Final Research Performance Progress Report, Final Invention Statement, and the Final Federal Financial Report (FFR)) within 120 days of the end of this grant to avoid unilateral closeout.
 - Insert restriction language that allows for the recipients to use a portion of funds to support the health and safety of patients and orderly closeout of the project.
 - Sample language for use: “Funds in the amount of \$xxxxxxx [insert \$ amount total cost] may be used to support patient safety and orderly closeout of the project. Funds used to support any other research activities will be disallowed and recovered.”
- Appeals language must be used (prior to October 1, 2025):
 - NIH is taking this enforcement action in accordance with [2 C.F.R. § 200.340](#) as implemented in [NIH GPS Section 8.5.2](#). This letter represents the final decision of the NIH. It shall be the final decision of the Department of Health and Human Services (HHS) unless within 30 days after receiving this decision you mail or email a written notice of appeal to Dr. Matthew Memoli.

Please include a copy of this decision, your appeal justification, total amount in dispute, and any material or documentation that will support your position. Finally, the appeal must be signed by the institutional official authorized to sign award applications and must be postmarked no later than 30 days after the postmarked date of this notice.
- Termination actions taken based on agency priorities do not require appeals language because the action was not based on administrative nor programmatic noncompliance

Appendix 3 – Language provided to NIH by HHS providing examples for research activities that NIH no longer supports.

- China: Bolstering Chinese universities does not enhance the American people's quality of life or improve America's position in the world. On the contrary, funding research in China contravenes American national-security interests and hinders America's foreign-policy objectives.
- DEI: Research programs based primarily on artificial and non-scientific categories, including amorphous equity objectives, are antithetical to the scientific inquiry, do nothing to expand our knowledge of living systems, provide low returns on investment, and ultimately do not enhance health, lengthen life, or reduce illness. Worse, so-called diversity, equity, and inclusion ("DEI") studies are often used to support unlawful discrimination on the basis of race and other protected characteristics, which harms the health of Americans. Therefore, it is the policy of NIH not to prioritize such research programs.
- Transgender issues: Research programs based on gender identity are often unscientific, have little identifiable return on investment, and do nothing to enhance the health of many Americans. Many such studies ignore, rather than seriously examine, biological realities. It is the policy of NIH not to prioritize these research programs.

Appendix 4 – Approved Term – Use for all Category 2 awards, i.e., renegotiated aims and associated budgets. Approval embedded below. ICs should use this term in the IC specific award conditions

Term and Condition of Award

NIH and the recipient have renegotiated the scope of this award. Pursuant to the revised scope, NIH funds may only be used to support activities within the revised scope of the award. NIH funds may not be used to support activities that are outside the revised scope of the award, including Diversity Equity and Inclusion (DEI) research or DEI-related research training activities or programs. Any funds used to support activities outside the scope will result in a disallowance of costs, and funds will be recovered.

This term is consistent with NIH's ongoing internal review of NIH's priorities and the alignment of awards with those priorities as well as a review of program integrity of awards. Such review includes, but is not limited to, a review for fraud, waste and abuse, and a review of the NIH portfolio to determine whether awards are in the best interests of the government and consistent with policy priorities. If recipients are unclear on whether a specific activity constitutes DEI or has questions regarding other activities that could be considered outside the scope of the award, refrain from drawing down funds and consult with the funding IC, particularly where the activity may impact the specific aims, goals, and objectives of the project.

Approval email from Dr. Memoli (Acting Director, NIH) on Friday, February 28, 2025.

From: [Memoli, Matthew \(NIH/OD\) \[E\]](#)
To: [Bundesen, Liza \(NIH/OD\) \[E\]](#)
Cc: [Bulls, Michelle G. \(NIH/OD\) \[E\]](#); [Lankford, David \(NIH/OD\) \[E\]](#); [Butler, Benjamin \(NIH/OD\) \[E\]](#); [Jacobs, Anna \(NIH/OD\) \[E\]](#); [Burklow, John \(NIH/OD\) \[E\]](#)
Subject: Re: Clean Version of DEI Restriction Term - Final
Date: Friday, February 28, 2025 2:54:19 PM

approved

Matt

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From: Bundesen, Liza (NIH/OD) [E] [REDACTED]
Sent: Friday, February 28, 2025 2:53:21 PM
To: Memoli, Matthew (NIH/OD) [E] [REDACTED]
Cc: Bulls, Michelle G. (NIH/OD) [E] [REDACTED]; Lankford, David (NIH/OD) [E] [REDACTED]; Butler, Benjamin (NIH/OD) [E] [REDACTED]; Jacobs, Anna (NIH/OD) [E] [REDACTED]; Burklow, John (NIH/OD) [E] [REDACTED]
Subject: Clean Version of DEI Restriction Term - Final

Hi Matt,

Attached is the term and condition of award for your approval. Please let us know if you approve and we will implement.

Thank you,
Liza

EXHIBIT R-6

From: Bulls, Michelle G. (NIH/OD) [E] [REDACTED]

Sent: Thursday, March 13, 2025 4:04 PM

To: Chief GMOs [REDACTED]

Cc: Bulls, Michelle G. (NIH/OD) [E] [REDACTED]; Ta, Kristin (NIH/OD) [E] [REDACTED]

Subject: Award Revision Guidance and List of Terminated Grants via letter on 3/12

Chiefs,

Attached are two items: 1) updated categories for you to use when issuing NOAs to officially terminate the awards where letters were issued, and 2) the list of termination letters that were issued yesterday. Please revise your NOAs related to the attached list by next **Wednesday, March 13, 2025, cob**. It is extremely important that issue the revised awards timely. If there are delays, please let me know and we can try to help somehow/some way. I appreciate you all.

Please save this guidance until we can clear the updated staff guidance, and you will need this to issue revised awards. Note: If your IC is not listed on the attached spreadsheet – no action is required, at this time.

Guidance for IC staff to use when terminating awards identified by HHS or the IC due to DEI or other agency priorities.

- Issue a revised NOA.
 1. Change the budget and project period end dates to match the date of the termination letter.
 2. OPERA will place a hard funds restriction on all documents within the excel spreadsheet. Do not deobligate any funds when you issue the revised award to terminate the projects. If there are no animals and humans, FFR-C will deobligate the awards after the Final FFRs are submitted. No deobligation actions required from the ICs.
 3. Remove all future years from the project, where applicable. If the grant is in a no cost extension, and HHS requests a termination, the project must be terminated.
 4. Termination Term to be used **DELETE THE OLD TERM RELATED TO DOLLAR AMOUNTS FOR HARD FUNDS RESTRICTIONS – IT IS NO LONGER APPLICABLE.**

It is the policy of NIH not to prioritize [insert termination category language]. Therefore, this project is terminated. [RECIPIENT NAME] may request funds to support patient safety and orderly closeout of the project. Funds used to support any other research activities will be disallowed and recovered. Please be advised that your organization, as part of the orderly closeout process will need to submit the necessary closeout documents (i.e., Final Research

Performance Progress Report, Final Invention Statement, and the Final Federal Financial Report (FFR), **as applicable**) within 120 days of the end of this grant.

NIH is taking this enforcement action in accordance with 2 C.F.R. § 200.340 as implemented in NIH GPS Section 8.5.2. This revised award represents the final decision of the NIH. It shall be the final decision of the Department of Health and Human Services (HHS) unless within 30 days after receiving this decision you mail or email a written notice of appeal to Dr. Matthew Memoli. Please include a copy of this decision, your appeal justification, total amount in dispute, and any material or documentation that will support your position. Finally, the appeal must be signed by the institutional official authorized to sign award applications and must be dated no later than 30 days after the date of this notice.

Thanks,
Michelle

Termination Categories

- China: Bolstering Chinese universities does not enhance the American people's quality of life or improve America's position in the world. On the contrary, funding research in China contravenes American national-security interests and hinders America's foreign-policy objectives.
- DEI: Research programs based primarily on artificial and non-scientific categories, including amorphous equity objectives, are antithetical to the scientific inquiry, do nothing to expand our knowledge of living systems, provide low returns on investment, and ultimately do not enhance health, lengthen life, or reduce illness. Worse, so-called diversity, equity, and inclusion ("DEI") studies are often used to support unlawful discrimination on the basis of race and other protected characteristics, which harms the health of Americans. Therefore, it is the policy of NIH not to prioritize such research programs.
- Gender: Research programs based on gender identity are often unscientific, have little identifiable return on investment, and do nothing to enhance the health of many Americans. Many such studies ignore, rather than seriously examine, biological realities. It is the policy of NIH not to prioritize these research programs.
- Vaccine Hesitancy: It is the policy of NIH not to prioritize research activities that focuses gaining scientific knowledge on why individuals are hesitant to be vaccinated and/or explore ways to improve vaccine interest and commitment. NIH is obligated to carefully steward grant awards to ensure taxpayer dollars are used in ways that benefit the American people and improve their quality of life. Your project does not satisfy these criteria.

EXHIBIT R-7

INNOVATION > HEALTHCARE

These 197 Terms May Trigger Reviews Of Your NIH, NSF Grant Proposals

By [Bruce Y. Lee](#), Senior Contributor. ⓘ Bruce Y. Lee, M.D., MBA, covers health,...

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The future for scientists holding or applying for National Science Foundation, National Institutes ... [More](#)
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Apparently, if you have the words “women” or “female” somewhere in your grant proposal to a federal agency like the National Institutes of Health or the National Science Foundation, watch out. Your proposal may now get flagged for additional scrutiny. It’s not clear what exactly might happen, whether your NSF, NIH or whatever proposal will get rejected, your funding will be yanked or your work will be censored as a result. But is this a case where you would have been better off using terms like “those others” or “someone who told you to put the toilet seat down” instead of “women” or “female”?

Terms Triggering Review

There’s a whole bunch of terms in addition to “women” and “female” that may trigger such a review. Karen Yourish, Annie Daniel, Saurabh Datar, Isaac White and Lazaro Gamio compiled the following list for the *New York Times* after poring over a bunch of government memos that they had obtained:

- accessible
- activism
- activists
- advocacy

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- advocates
- affirming care
- all-inclusive
- allyship
- anti-racism
- antiracist
- assigned at birth
- assigned female at birth
- assigned male at birth
- at risk
- barrier
- barriers
- belong
- bias
- biased
- biased toward
- biases
- biases towards
- biologically female
- biologically male
- BIPOC
- Black
- breastfeed + people

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- chestfeed + people
- chestfeed + person
- clean energy
- climate crisis
- climate science
- commercial sex worker
- community diversity
- community equity
- confirmation bias
- cultural competence
- cultural differences
- cultural heritage
- cultural sensitivity
- culturally appropriate
- culturally responsive
- DEI
- DEIA
- DEIAB
- DEIJ
- disabilities
- disability
- discriminated
- discrimination

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- disparity
- diverse
- diverse backgrounds
- diverse communities
- diverse community
- diverse group
- diverse groups
- diversified
- diversify
- diversifying
- diversity
- enhance the diversity
- enhancing diversity
- environmental quality
- equal opportunity
- equality
- equitable
- equitableness
- equity
- ethnicity
- excluded
- exclusion
- expression

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- females
- feminism
- fostering inclusivity
- GBV
- gender
- gender based
- gender based violence
- gender diversity
- gender identity
- gender ideology
- gender-affirming care
- genders
- Gulf of Mexico
- hate speech
- health disparity
- health equity
- hispanic minority
- historically
- identity
- immigrants
- implicit bias
- implicit biases
- inclusion

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- inclusive leadership
- inclusiveness
- inclusivity
- increase diversity
- increase the diversity
- indigenous community
- inequalities
- inequality
- inequitable
- inequities
- inequity
- injustice
- institutional
- intersectional
- intersectionality
- key groups
- key people
- key populations
- Latinx
- LGBT
- LGBTQ
- marginalize
- marginalized

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- mental health
- minorities
- minority
- most risk
- MSM
- multicultural
- Mx
- Native American
- non-binary
- nonbinary
- oppression
- oppressive
- orientation
- people + uterus
- people-centered care
- person-centered
- person-centered care
- polarization
- political
- pollution
- pregnant people
- pregnant person
- pregnant persons

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- privilege
- privileges
- promote diversity
- promoting diversity
- pronoun
- pronouns
- prostitute
- race
- race and ethnicity
- racial
- racial diversity
- racial identity
- racial inequality
- racial justice
- racially
- racism
- segregation
- sense of belonging
- sex
- sexual preferences
- sexuality
- social justice
- sociocultural

F

- status
- stereotype
- stereotypes
- systemic
- systemically
- they/them
- trans
- transgender
- transsexual
- trauma
- traumatic
- tribal
- unconscious bias
- underappreciated
- underprivileged
- underrepresentation
- underrepresented
- underserved
- undervalued
- victim
- victims
- vulnerable populations
- women

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Umm, these aren't exactly don't-ever-say-it-in-public words like the f-word and amazeballs. Quite the contrary. For example, why is "bias" on the list when everyone who is human has biases? Moreover, it might be really hard to conduct research on trauma and be a trauma specialist when you are worried about even uttering the word. And who knew that female would become an f-word in the eyes of the government?

The Consequences Of Having Such Terms In Your Proposals And Contracts

Yet, according to the *New York Times* article, government memos have ordered some of the words in the list above be stricken from government websites and materials. Other words on the list may still be allowable on websites and materials but trigger greater scrutiny and possible adverse actions when appearing in grant proposals and contracts. People whom I have spoken to at various federal scientific agencies have said that such adverse actions can include the termination of funding.

A big challenge for scientists around the country is that a lot of what is happening remains under wraps. There has been some indication of why the reviews are occurring and what the criteria may be. For example, soon after the inauguration of President Donald Trump, his Administration shut down communications from federal science agencies for about a week. When the NSF website went live again, [as of January 29 it included the following statement about Trump's Executive Orders](#): "All NSF grantees must comply with these executive orders, and any other relevant executive orders issued, by ceasing all non-compliant grant and award activities. Executive orders are posted at [whitehouse.gov/presidential-actions](https://www.whitehouse.gov/presidential-actions)." The announcement continued by saying, "In particular, this may include, but is not limited to conferences, trainings, workshops, considerations for staffing and participant selection, and any other grant activity that uses or promotes the use of diversity, equity, inclusion and accessibility (DEIA) principles and frameworks or violates federal anti-discrimination laws." Otherwise, the process has been about as clear as mud to scientists and anyone holding or applying for grants or contracts.

Granted, it's not uncommon for a new Presidential Administration to implement changes in terminologies on websites and funding announcements. As language and understanding evolve, new terms to describe scientific issues can emerge. But designating terms that could lead to the rejection of scientific funding proposals or withdrawal of federal funding is a different story.

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All of this has left many scientists and their teams throughout the country in limbo, and not in a fun dance-under-a-horizontal-bar type of way. It's more in a how-low-can-go way. Many scientists' careers hinge heavily on NSF, NIH and other federal funding. So do the many staff and students whom they employ. Plus, many universities and other institutions rely on the indirect cost support from grants to keep different operations going and pay many employees, [as I've detailed previously for *Forbes*](#).

Again, the aforementioned list has not been officially posted for the public to see. Neither has a description of the actions being taken. Therefore, many scientists whom I talked to are unsure about what may happen to their existing funding and when and whether they should apply for new grant funding. Moreover, who knows what other terms may be added to the uh-oh list when.

Additionally, it's not quite clear who is calling the shots at federal agencies like the NSF and NIH right now. Who is conducting these reviews of grants and contracts? What are their scientific qualifications? Are they even scientists? How much is DOGE involved, meaning Elon Musk's so-called Department of Governmental Efficiency and not the cryptocurrency or the Director of Graduate Education? Whoever they are, they could be deciding what science is and isn't done in this country and what diseases will or will not get properly treated.

Is Scientific Peer Review Being Bypassed?

Is all of this a veer from peer review? Historically, federal agencies like the NSF and NIH have relied heavily on peer-review to determine the merit of scientific project proposals and the awarding of funding. This has been done to prevent the politicization of the scientific process and censorship. Peer review has meant having acknowledged scientific experts who are not members of the agencies and do not have any clear conflicts of interest review, evaluate and give their recommendations on grant proposals. The NSF, NIH and CDC have typically followed these recommendations.

Once a proposed project has been deemed worthwhile by this peer-review process, NSF, NIH and CDC program officers and administrators are not supposed to re-adjudicate or re-evaluate the science because doing so could bring in personal biases and such. This process was put in place long ago in attempts to maintain the integrity of scientific processes. Although this process has been far from perfect, any attempt to bypass such peer review could lead science and society down a slippery slope.

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determine what is really happening based on real evidence. In order to do so, scientists must be allowed to remain independent and autonomous without being forced to bow to political influence. That's allowed scientists in the past to challenge what was conventional wisdom at the time like since disproven beliefs that the Earth was flat and the center of the solar system, evolution didn't exist and "bad air" rather than germs caused infectious diseases.

History is full of tragic situations where political and religious leaders have tried to muzzle and persecute scientists. For example, the Catholic Church put Galileo Galilei on house arrest and trial for supporting the theory that the Earth revolves around the Sun and the Nazi regime did all sorts of terrible things to scientists who wouldn't comply or were of certain race and ethnicities in Germany in the earlier 1900s. These actions have occurred often because scientists are willing to communicate things that those in power don't want others to hear. A true, pure scientist is one who wants to know the facts and truth and is willing to listen to them over any particular political party or religious sect.

Are the actions being taken with the NSF, NIH and other federal scientific agencies moving towards attempted censorship and suppression of scientists? It's a question that you can't dodge, or DOGE, right now. More info is needed to tell what's going on, and I am making further inquiries and trying to get the facts. After all, science is about uncovering the facts. And facts are facts regardless of what language you want to use or prevent from being used.

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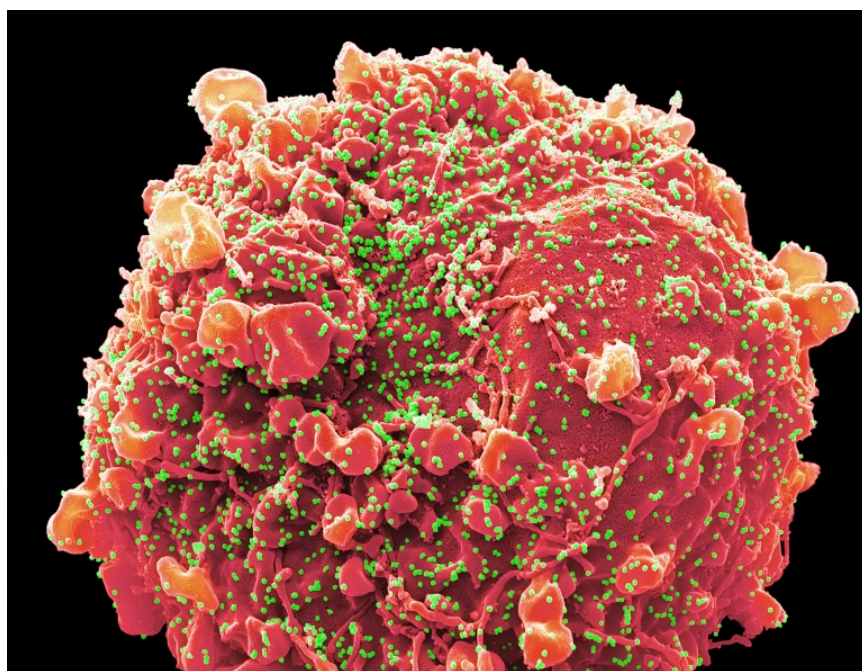
EXHIBIT R-8

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NEWS | 26 March 2025

Exclusive: NIH to cut grants for COVID research, documents reveal

Studies on climate change and South Africa are also on the latest list of grants to be terminated, according to updated documents obtained by *Nature*.

By [Max Kozlov](#)

The SARS-CoV-2 virus that causes COVID has killed more than 1.2 million people in the US. Credit: Steve Gschmeissner/Science Photo Library

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How Trump 2.0 is reshaping science

The US National Institutes of Health (NIH) and Centers for Disease Control and Prevention (CDC) have begun cancelling billions of dollars in funding on research related to the COVID-19 pandemic.



COVID-19 research funds “were issued for a limited purpose: to ameliorate the effects of the pandemic”, according to an internal NIH document that *Nature* has obtained and that provides the agency’s staff members with updated guidance on how to terminate these grants. “Now that the pandemic is over, the grant funds are no longer necessary,” the document states. It is not clear how many COVID-19 grants will be terminated.

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‘Boggles the mind’: US defence department slashes research on emerging threats

The crackdown on COVID-19 research comes as the NIH under US President Donald Trump has halted nearly 400 grants in the past month. An earlier version of the documents, [obtained by Nature on 5 March](#), directed staff to identify and potentially cancel projects on transgender populations; gender identity; diversity, [equity and inclusion \(DEI\)](#) in the scientific workforce; and environmental justice.

The NIH, which is the world’s largest public funder of [biomedical research](#), has awarded grants to nearly 600 ongoing projects that include ‘COVID’ in the title, worth nearly US\$850 million. Together these projects make up nearly 2% of the NIH’s \$47 billion budget. And the CDC plans to cancel \$11.4 billion in funds for pandemic response, [NBC News reports](#).

SARS-CoV-2, [the virus](#) that causes COVID-19, has killed more than 7 million people globally, including more than 1.2 million people in the United States, and continues to infect and kill people. Studying the virus, how it infects people and the government’s response to the pandemic is also crucial to preventing the next one, say scientists.

Among the terminations at the NIH is a \$577 million programme to identify and develop antiviral drugs against the SARS-CoV-2 coronavirus and six other types of viruses with pandemic potential.

“These terminations are clearly shortsighted – we desperately need new treatments against viruses,” says Jason McLellan, a structural virologist at the University of Texas, Austin, whose project to develop broad-spectrum treatments that work against multiple types of viruses was part of the programme and terminated on 24 March. “To cancel the entire grant because a small portion involved SARS-CoV-2 is going to be dangerous for future pandemic preparedness.”

Neither the NIH nor its parent organization, the US Department of Health and Human Services (HHS), responded to *Nature*’s queries about the

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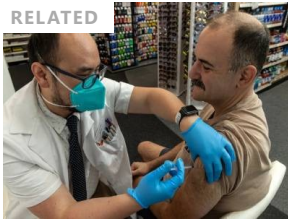
grant terminations or scientists' concerns about them.

Updated guidance

The updated guidance document that *Nature* obtained (see Supplementary Information below) was sent on 25 March to NIH staff members who oversee the business side of awarding research grants, called 'grants-management specialists'. This document includes COVID-19 on a list of "research activities that NIH no longer supports", in addition to research on China, DEI, "transgender issues" and vaccine hesitancy. The latest guidance also says that grants related to [South Africa](#) and climate change should be terminated.

In addition to these research topics, the document outlines a new category of research that should be terminated: any project on a list sent by the NIH director or the HHS, which is currently helmed by longtime anti-vaccine advocate Robert F. Kennedy, Jr.

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Such large-scale grant terminations are unprecedented; the agency typically terminates only a few dozen projects each year in response to serious concerns about research misconduct or fraud – and does so only as a last resort, after taking other actions such as suspension.

Grants-management specialists will be tasked with identifying and terminating projects, because the agency's scientific staff members are considered to be too biased by the NIH's current leadership to make these determinations, says an NIH official who requested anonymity because they weren't authorized to speak to the press.

But some scientists fear that the guidance for NIH employees is too vague and that any research project associated with certain keywords could be on the chopping block without consideration of its merit. "They've been taking a chainsaw to grants and not a surgical laser," says Angela Rasmussen, a virologist at the University of Saskatchewan in Saskatoon, Canada, who studies SARS-CoV-2.

Long COVID

Under the new directive, it's unclear whether the NIH plans to shut down long COVID research, including its \$1.6 billion RECOVER initiative, which aims to find the root causes and treatments for the disease. The Trump administration appears to be deprioritizing long COVID: this week, the HHS will close its Office of Long COVID Research and Practice, which coordinates the US government's response to the disease, according to e-mail correspondence that *Nature* has obtained.

The termination of COVID-19 research is a “real slap in the face of the many patients struggling with the long-term health effects of COVID infections”, says Jennifer Nuzzo, an epidemiologist and director of the Pandemic Center at Brown University in Providence, Rhode Island.

Kennedy has vowed to “make America healthy again”, in part by overhauling US health agencies to focus on chronic diseases. This “wholesale crackdown” on COVID research is not in the spirit of the campaign, Nuzzo says. “We should be studying how infections cause some of the worst diseases that society endures”, she says, adding that research has linked infection with a common herpesvirus called Epstein-Barr to the development of multiple sclerosis.

Akiko Iwasaki, an immunologist at Yale School of Medicine in New Haven, Connecticut, who studies immune responses in people with long COVID and other post-viral conditions, says: “If we don’t figure this out now with this pandemic, I’m afraid we will be much less prepared for future pandemics.”

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SUPPLEMENTARY INFORMATION

- 1. [Updated NIH guidance](#)
- 2. [Updated NIH appendices](#)

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How Trump 2.0 is slashing NIH-backed research — in charts

***Nature* analyses which fields of science and US states are being hit hardest by grant terminations.**

By [Max Kozlov](#) & [Chris Ryan](#)

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Scientists and others have been protesting against the massive cuts to research at the US National Institutes of Health being made by the administration of US President Donald Trump. Credit: Dominic Gwinn/Middle East Images/AFP via Getty

The US National Institutes of Health (NIH) [has terminated](#) nearly 800 research projects at a breakneck pace, wiping out significant chunks of funding to entire scientific fields, finds a *Nature* analysis of the unprecedented cuts.

The administration of US President Donald Trump began purging NIH-funded studies on topics that it deems problematic less than 50 days ago, continuously expanding its list to include research on topics ranging from [COVID-19](#) to misinformation. Hundreds of the 30,000-plus scientists funded by the NIH yearly have been forced to halt their work after receiving notices that their research “no longer effectuates agency priorities”, and some have had to fire personnel or even shut down their laboratories.

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To understand the extent and breadth of these actions, which have so far clawed back more than US\$2.3 billion allocated to US researchers, *Nature* tapped into a scientist-led effort to track these cuts (see ‘How *Nature* analysed NIH’s grant terminations’ in Supplementary information). Our analysis reveals the project topics, NIH institutes and US states affected the most.

The cancellations of projects, despite scientists scoring them highly during review, “tears the long-standing fabric of the government’s contract to pursue medical research that seeks to better the healthspan and lifespan for all Americans”, says Francis Collins, [a geneticist who led the NIH, based in Bethesda, Maryland, for 12 years](#) under three US presidents, including Trump.

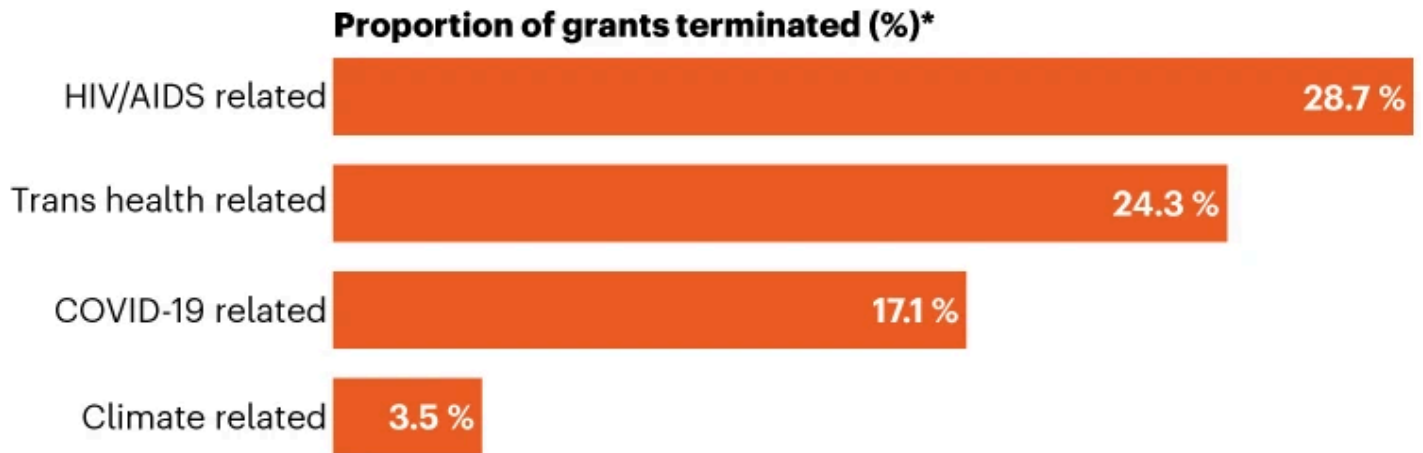
The NIH and its parent organization, the US Department of Health and Human Services (HHS) based in Washington DC, did not respond to *Nature’s* queries about the terminations or scientists’ concerns about them.

Grant assessment

The NIH is by far [the world’s largest public funder of biomedical research](#), with an annual budget of \$47 billion paying for more than 60,000 grants. This size means that the agency’s funding is irreplaceable for science, says Shirley Tilghman, a molecular biologist and former president of Princeton University in New Jersey.

TERMINATED GRANT TALLY

Under President Donald Trump, the US National Institutes of Health has cancelled roughly 770 active research grants as of 7 April. Nearly 29% of the grants terminated were for research that mentioned HIV/AIDS, and about one-quarter of the grants terminated were related to the health of transgender people. Other topic areas that the Trump team has deemed no longer in the interests of the agency are COVID-19 and the effects of climate change on health.



*Percentages are calculated by searching NIH grant titles and abstracts for key terms such as 'transgender', 'gender diversity', 'climate' and 'SARS-CoV-2'. Percentages do not sum to 100% because these topics do not cover all grants cancelled and because there is some overlap between them.

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Source: *Nature* analysis of [NIH Grant Terminations in 2025 database](#)

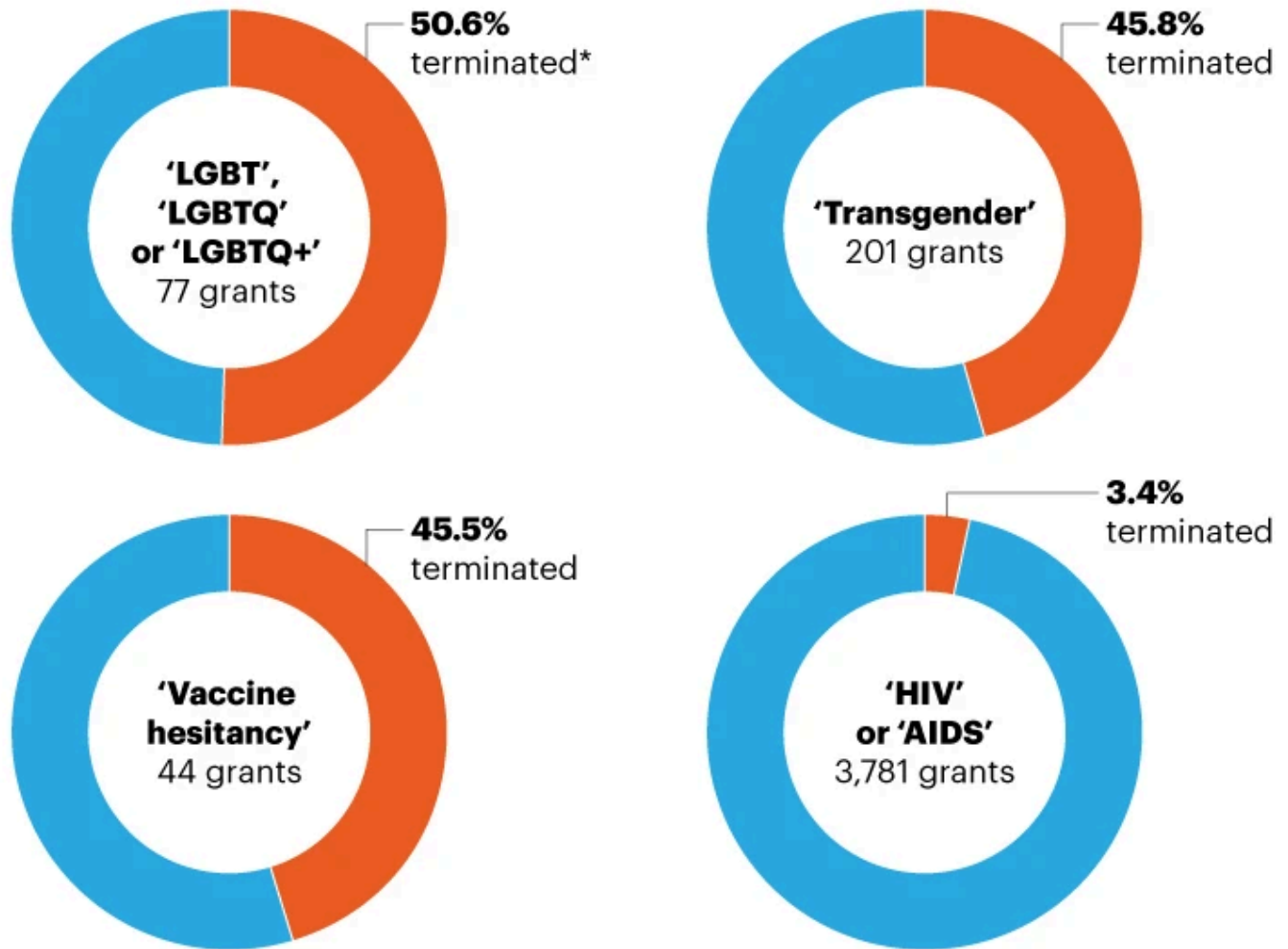
Nature's analysis shows that, looking at just the projects terminated so far, 17% are related to COVID-19, and 29% to HIV/AIDS (see 'Terminated grant tally') – although this represents less than 4% of all the grants awarded to each of those topics that the agency funded in 2024. One reason for the focus of these cuts is that the Trump administration has said that the COVID-19 pandemic is over and people in the United States have moved on from it. Another potential reason is that HIV/AIDS disproportionately affects sexual and gender minorities (LGBT+); Trump [signed an executive order on his first day in office](#) on 20 January, directing the US government to stop acknowledging the fact that a person's gender can differ from their sex at birth.

The scientific fields hit hardest by the NIH's cuts are those related to the health of transgender people, and the broader LGBT+ community, where around half of grants have been cut compared with what the NIH funded in 2024 (see 'Fields under fire').

FIELDS UNDER FIRE

Some research fields have been heavily affected by grant terminations implemented by the US National Institutes of Health (NIH) under President Donald Trump. More than half of the active, NIH-funded projects about gender and sexual minorities (LGBT+) have been cancelled.

Research projects with the search terms:



*Percentages are calculated by first determining the number of research grants cancelled in a certain field by searching cancelled project titles and abstracts for related terms such as 'LGBTQ+' or 'vaccine hesitancy'. Then, those numbers were compared with the total number of grants in that field that were active and funded in 2024, again evaluated by searching for the same keywords.

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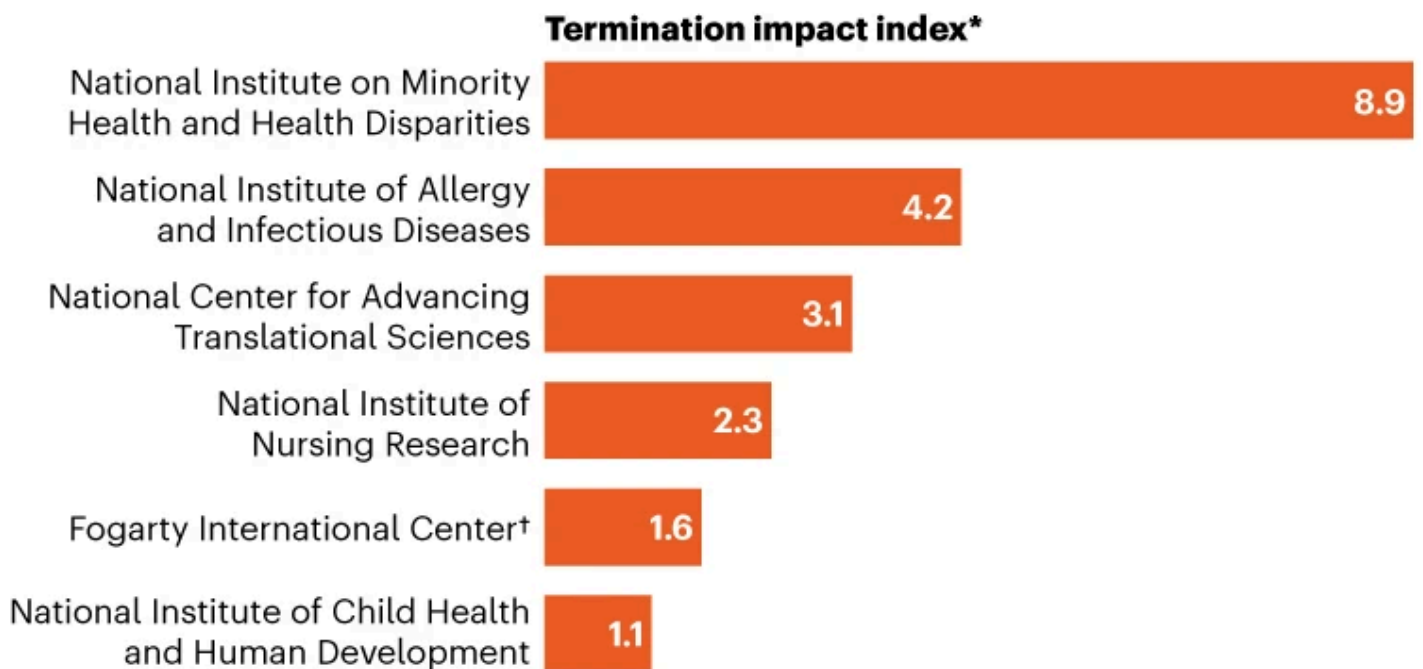
Source: *Nature* analysis of [NIH Grant Terminations in 2025 database](#)

These actions deny “a small but real percentage of the population answers to critically important questions about their health”, Tilghman says. “You cannot eliminate a segment of the population by executive order, but you can harm them greatly.”

The NIH institutes that fund a lot of research in these now-disfavoured topic areas – for instance, the US National Institute on Minority Health and Health Disparities – have been hammered by the cuts (see ‘US NIH institutes losing the most’). Five of six of the directors of the NIH’s institutes and centres affected the most by these grant cancellations [were placed on administrative leave last week](#), amid a glut of lay-offs and restructuring at the HHS.

US NIH INSTITUTES LOSING THE MOST

The institutes and centres of the US National Institutes of Health that focus on health of minority groups and infectious diseases have been targeted the most for grant cuts under Trump 2.0.



*Termination impact index is calculated by comparing the grant money rescinded by the administration with the average amount of grant money allocated annually across 2020–24. † This NIH centre supports global health research conducted by international and US scientists.

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Source: *Nature* analysis of [NIH Grant Terminations in 2025 database](#)

Geographical impacts

Trump and his Republican allies have said that they want to rein in ‘woke’ left-wing, elite universities. The grant terminations are now damaging the scientific enterprise at

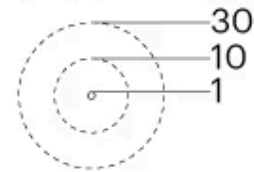
research institutions in both ‘red’ states that voted for Trump in 2024 and ‘blue’ states that didn’t (see ‘Grant cuts by state’). Washington state, a blue state in 2024, has been hit hardest by the grant terminations, relative to how much NIH funding it typically receives in a year, with North Carolina, a red state in 2024, being a close second.

But the administration isn’t just cutting NIH grants at the wealthiest universities: many cuts are also happening at small state schools and historically Black colleges and universities, says Scott Delaney, an epidemiologist at the Harvard T. H. Chan School of Public Health in Boston, Massachusetts, who co-runs [the database that *Nature* used for its analysis](#). To create the database, Delaney and his collaborator, Noam Ross, executive director of the data-science non-profit organization rOpenSci, based in Berkeley, California, have been asking scientists to submit information about their grant terminations and scraping from a list of cancelled projects that the HHS posts on its website weekly.

GRANT CUTS BY STATE

US states that voted for Republican Donald Trump in the 2024 presidential election (red) and Democrat Kamala Harris (blue) are both being hit hard by terminations of research grants awarded by the US National Institutes of Health.

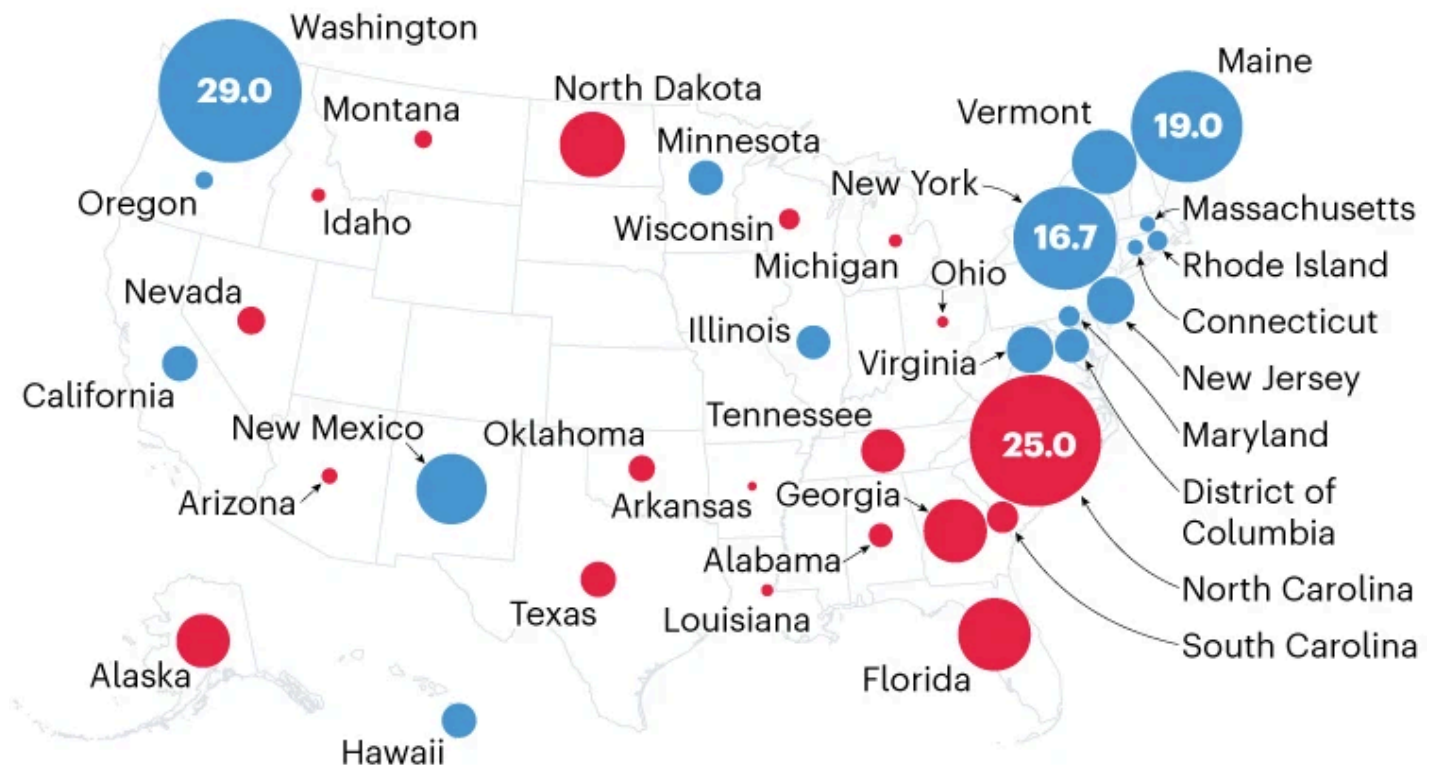
Termination impact index*



2024 election result

● Voted for Harris

● Voted for Trump



*Termination impact index is calculated by comparing the grant money rescinded by the administration with the average amount of grant money allocated annually across 2020–24. States not labelled had an impact index of less than 1.

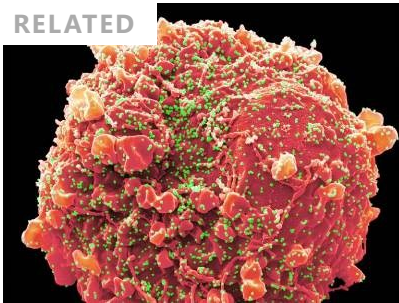
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Source: *Nature* analysis of [NIH Grant Terminations in 2025 database](#)

Biomedical-research heavyweight states Massachusetts, California, Maryland and Texas have lost some of the largest absolute amounts of research funding, but because they receive so much from the NIH, the impact has been less than for other states. New York state is an exception – it registers in the top five states affected, according to *Nature's* analysis, because it is home to Columbia University in New York City.

Trump's team [has targeted research grants at Columbia](#), cancelling \$400 million to the university because, the administration has said, it failed to protect Jewish students from harassment during [campus protests over Israel's war in Gaza](#).

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Unlike at other universities that lost NIH grants tied to topics of concern for the administration, Columbia has had a much broader swathe of grants cancelled. *Nature* searched all terminated NIH grants for keywords that officials at [federal agencies have been directed to search for](#), including 'diversity', 'barrier' and 'underserved'. The NIH terminated 89 grants at Columbia that contained fewer than 4 flagged words, compared with the institution that received the second-most terminations, Emory

University in Atlanta, Georgia, which lost 3 grants in this category. This indicates that the administration was less focused on topics of concern and more focused on cutting a certain amount of funding at Columbia. For instance, one of the cut grants was titled, ['Long-term exposure to arsenic, and the co-occurrence of uranium, in public and private drinking water'](#), and investigated links between arsenic and chronic heart and kidney disease.

Since terminating these grants, the Trump administration has threatened the same treatment at several other elite universities that together receive billions in research funding. *Nature's* analysis of the database should quash any wishful thinking that, "I have this grant studying synapses in fruit flies, and so I'm safe", Delaney says. "Not if you're at a targeted institution."

Termination normalized

In the past, the termination of grants has been exceedingly rare, reserved only for gross misconduct, poor performance or fraud, says a former senior employee at the NIH, who requested anonymity out of fear of retribution. Even in those cases, institutions are often given the opportunity to remedy the situation, the former worker says.

“Up until now, grant recipients have been able to assume that, as long as they do good work and don’t do anything stupid, they’ll have five years of funding,” they add. “Now, that’s gone.”

This uncertainty, combined with the hostility toward institutions of higher education, is already having a deep chilling effect: more than 75% of respondents to an informal *Nature* poll of readers who are scientists [said that they were considering leaving the United States](#).

A coalition of 16 state attorney-generals, as well as a group of researchers and research-affiliated organizations, filed two legal challenges seeking to overturn grant cancellations and bar the NIH from continuing what one lawsuit calls a “reckless and illegal purge to stamp out NIH-funded research that addresses topics and populations that they disfavor”. The NIH did not respond to *Nature*’s queries about the lawsuits. The HHS said that it doesn’t comment on pending litigation.

doi: <https://doi.org/10.1038/d41586-025-01099-8>

Max Kozlov reported and wrote this story and analysed some data; Chris Ryan analysed data and created the charts for this piece.

UPDATES & CORRECTIONS

Correction 11 April 2025: An earlier version of this story had the wrong colours for Arizona and New Mexico in the ‘Grants cut by state’ graphic. Arizona voted for Trump in 2024, and New Mexico for Harris.

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SUPPLEMENTARY INFORMATION

1. [How Nature analysed NIH's grant terminations](#)

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EXHIBIT R-10



April 11, 2025

Dr. Alan M. Garber
President
Harvard University
Office of the President
Massachusetts Hall
Cambridge, MA 02138

Penny Pritzker
Lead Member, Harvard Corporation
Harvard Corporation
Massachusetts Hall
Cambridge, MA 02138

Dear Dr. Garber:

The United States has invested in Harvard University's operations because of the value to the country of scholarly discovery and academic excellence. But an investment is not an entitlement. It depends on Harvard upholding federal civil rights laws, and it only makes sense if Harvard fosters the kind of environment that produces intellectual creativity and scholarly rigor, both of which are antithetical to ideological capture.

Harvard has in recent years failed to live up to both the intellectual and civil rights conditions that justify federal investment. But we appreciate your expression of commitment to repairing those failures and welcome your collaboration in restoring the University to its promise. We therefore present the below provisions as the basis for an agreement in principle that will maintain Harvard's financial relationship with the federal government.

If acceptable to Harvard, this document will constitute an agreement in principle, which the parties will work in good faith to translate into a more thorough, binding settlement agreement. As you will see, this letter incorporates and supersedes the terms of the federal government's prior letter of April 3, 2025.

- **Governance and leadership reforms.** By August 2025, Harvard must make meaningful governance reform and restructuring to make possible major change consistent with this letter, including: fostering clear lines of authority and accountability; empowering tenured professors and senior leadership, and, from among the tenured professoriate and senior leadership, exclusively those most devoted to the scholarly mission of the University and committed to the changes indicated in this letter; reducing the power held by students and untenured faculty; reducing the power held by faculty (whether tenured or untenured) and administrators more committed to activism than scholarship; and reducing forms of

governance bloat, duplication, or decentralization that interfere with the possibility of the reforms indicated in this letter.

- **Merit-Based Hiring Reform.** By August 2025, the University must adopt and implement merit-based hiring policies, and cease all preferences based on race, color, religion, sex, or national origin throughout its hiring, promotion, compensation, and related practices among faculty, staff, and leadership. Such adoption and implementation must be durable and demonstrated through structural and personnel changes. All existing and prospective faculty shall be reviewed for plagiarism and Harvard's plagiarism policy consistently enforced. All hiring and related data shall be shared with the federal government and subjected to a comprehensive audit by the federal government during the period in which reforms are being implemented, which shall be at least until the end of 2028.
- **Merit-Based Admissions Reform.** By August 2025, the University must adopt and implement merit-based admissions policies and cease all preferences based on race, color, national origin, or proxies thereof, throughout its undergraduate program, each graduate program individually, each of its professional schools, and other programs. Such adoption and implementation must be durable and demonstrated through structural and personnel changes. All admissions data shall be shared with the federal government and subjected to a comprehensive audit by the federal government—and non-individualized, statistical information regarding admissions shall be made available to the public, including information about rejected and admitted students broken down by race, color, national origin, grade point average, and performance on standardized tests—during the period in which reforms are being implemented, which shall be at least until the end of 2028. During this same period, the dean of admissions for each program or school must sign a public statement after each admissions cycle certifying that these rules have been upheld.
- **International Admissions Reform.** By August 2025, the University must reform its recruitment, screening, and admissions of international students to prevent admitting students hostile to the American values and institutions inscribed in the U.S. Constitution and Declaration of Independence, including students supportive of terrorism or anti-Semitism. Harvard will immediately report to federal authorities, including the Department of Homeland Security and State Department, any foreign student, including those on visas and with green cards, who commits a conduct violation. As above, these reforms must be durable and demonstrated through structural and personnel changes; comprehensive throughout all of Harvard's programs; and, during the reform period, shared with the federal government for audit, shared on a non-individualized basis with the public, and certified by deans of admissions.
- **Viewpoint Diversity in Admissions and Hiring.** By August 2025, the University shall commission an external party, which shall satisfy the federal government as to its competence and good faith, to audit the student body, faculty, staff, and leadership for viewpoint diversity, such that each department, field, or teaching unit must be individually viewpoint diverse. This audit shall begin no later than the summer of 2025 and shall proceed on a department-by-department, field-by-field, or teaching-unit-by-teaching-unit basis as appropriate. The report of the external party shall be submitted to University leadership and

the federal government no later than the end of 2025. Harvard must abolish all criteria, preferences, and practices, whether mandatory or optional, throughout its admissions and hiring practices, that function as ideological litmus tests. Every department or field found to lack viewpoint diversity must be reformed by hiring a critical mass of new faculty within that department or field who will provide viewpoint diversity; every teaching unit found to lack viewpoint diversity must be reformed by admitting a critical mass of students who will provide viewpoint diversity. If the review finds that the existing faculty in the relevant department or field are not capable of hiring for viewpoint diversity, or that the relevant teaching unit is not capable of admitting a critical mass of students with diverse viewpoints, hiring or admissions within that department, field, or teaching unit shall be transferred to the closest cognate department, field, or teaching unit that is capable of achieving viewpoint diversity. This audit shall be performed and the same steps taken to establish viewpoint diversity every year during the period in which reforms are being implemented, which shall be at least until the end of 2028.

- **Reforming Programs with Egregious Records of Antisemitism or Other Bias.** By August 2025, the University shall commission an external party, which shall satisfy the federal government as to its competence and good faith, to audit those programs and departments that most fuel antisemitic harassment or reflect ideological capture.
 - The programs, schools, and centers of concern include but are not limited to the Divinity School, Graduate School of Education, School of Public Health, Medical School, Religion and Public Life Program, FXB Center for Health & Human Rights, Center for Middle Eastern Studies, Carr Center for Human Rights at the Harvard Kennedy School, Department of Near Eastern Languages and Cultures, and the Harvard Law School International Human Rights Clinic.
 - The report of the external party shall include information as to individual faculty members who discriminated against Jewish or Israeli students or incited students to violate Harvard's rules following October 7, and the University and federal government will cooperate to determine appropriate sanctions for those faculty members within the bounds of academic freedom and the First Amendment.
 - The report of the external party shall be submitted to University leadership and the federal government no later than the end of 2025 and reforms undertaken to repair the problems. This audit shall be performed and the same steps taken to make repairs every year during the period in which reforms are being implemented, which shall be at least until the end of 2028.
- **Discontinuation of DEI.** The University must immediately shutter all diversity, equity, and inclusion (DEI) programs, offices, committees, positions, and initiatives, under whatever name, and stop all DEI-based policies, including DEI-based disciplinary or speech control policies, under whatever name; demonstrate that it has done so to the satisfaction of the federal government; and demonstrate to the satisfaction of the federal government that these reforms are durable and effective through structural and personnel changes. By August

2025, the University must submit to the government a report—certified for accuracy—that confirms these reforms.

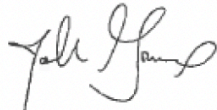
- **Student Discipline Reform and Accountability.** Harvard must immediately reform its student discipline policies and procedures so as to swiftly and transparently enforce its existing disciplinary policies with consistency and impartiality, and without double standards based on identity or ideology. Where those policies are insufficient to prevent the disruption of scholarship, classroom learning and teaching, or other aspects of normal campus life, Harvard must develop and implement disciplinary policies sufficient to prevent those disruptions. This includes but is not limited to the following:
 - Discipline at Harvard must include immediate intervention and stoppage of disruptions or deplatforming, including by the Harvard police when necessary to stop a disruption or deplatforming; robust enforcement and reinstatement of existing time, place, and manner rules on campus, including ordering the Harvard police to stop incidents that violate time, place, and manner rules when necessary; a disciplinary process housed in one body that is accountable to Harvard's president or other capstone official; and removing or reforming institutional bodies and practices that delay and obstruct enforcement, including the relevant Administrative Boards and FAS Faculty Council.
 - Harvard must adopt a new policy on student groups or clubs that forbids the recognition and funding of, or provision of accommodations to, any student group or club that endorses or promotes criminal activity, illegal violence, or illegal harassment; invites non-students onto campus who regularly violate campus rules; or acts as a front for a student club that has been banned from campus. The leaders or organizers of recognized and unrecognized student groups that violate these policies must be held accountable as a matter of student discipline and made ineligible to serve as officers in other recognized student organizations. In the future, funding decisions for student groups or clubs must be made exclusively by a body of University faculty accountable to senior University leadership. In particular, Harvard must end support and recognition of those student groups or clubs that engaged in anti-Semitic activity since October 7th, 2023, including the Harvard Palestine Solidarity Committee, Harvard Graduates Students 4 Palestine, Law Students 4 Palestine, Students for Justice in Palestine, and the National Lawyers Guild, and discipline and render ineligible the officers and active members of those student organizations.
 - Harvard must implement a comprehensive mask ban with serious and immediate penalties for violation, not less than suspension.
 - Harvard must investigate and carry out meaningful discipline for all violations that occurred during the 2023-2024 and 2024-2025 academic years, including the Harvard Business School protest of October 2023, the University Hall sit-in of November 2023, and the spring encampment of 2024. This must include permanently expelling the students involved in the October 18 assault of an Israeli

Harvard Business School student, and suspending students involved in occupying university buildings, as warranted by the facts of individual cases.

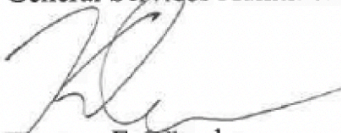
- o The Harvard president and police chief must publicly clarify that the Harvard University Police Department will enforce University rules and the law. Harvard must also commit to cooperating in good faith with law enforcement.
- **Whistleblower Reporting and Protections.** The University must immediately establish procedures by which any Harvard affiliate can report noncompliance with the reforms detailed in this letter to both university leadership and the federal government. Any such reporter shall be fully protected from any adverse actions for so reporting.
- **Transparency and Monitoring.** The University shall make organizational changes to ensure full transparency and cooperation with all federal regulators. No later than June 30, 2025, and every quarter thereafter during the period in which reforms are being implemented, which shall be at least until the end of 2028, the University shall submit to the federal government a report—certified for accuracy—that documents its progress on the implementation of the reforms detailed in this letter. The University must also, to the satisfaction of the federal government, disclose the source and purpose of all foreign funds; cooperate with the federal government in a forensic audit of foreign funding sources and uses, including how that money was used by Harvard, its agents, and, to the extent available, third parties acting on Harvard's campus; report all requested immigration and related information to the United States Department of Homeland Security; and comply with all requirements relating to the SEVIS system.

We expect your immediate cooperation in implementing these critical reforms that will enable Harvard to return to its original mission of innovative research and academic excellence.

Sincerely,



Josh Gruenbaum
Comm'r of the Fed. Acquisition Serv.
General Services Administration



Thomas E. Wheeler
Acting General Counsel
U.S. Dept. of Education



Sean R. Keveney
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By Josh Kovensky | February 26, 2025 3:29 p.m.
Updated February 26, 2025 6:06 p.m.



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DOGE is moving to cancel all awards for some Housing and Urban Development contractors, citing “DEI”-related work and other factors that are separate from the substance of the contracts being cancelled.

An internal HUD email reviewed by TPM said that DOGE was moving to cancel “all awards” for eight contractors after a “DOGE review of their websites and LinkedIn profiles.”

It's a stunning and candid admission of what DOGE is doing at HUD: taking contracts away from organizations not because of the quality or substance of their work, but because of unrelated political issues. In this case, the email cited President Trump's anti-"DEI" executive order as a reason to end the contracts — not because the awards themselves were in violation of the order, but because the organizations presented themselves and their work in a way that ran afoul of the administration's preferences.

The contracts affected by the DOGE decision all cover awards for technical assistance, programs that help housing organizations across the country spend HUD grants effectively and work to build affordable housing or help people to find housing.

Kevin Martone, executive director of contractor Technical Assistance Collaborative, Inc., told TPM that HUD told him the awards were being cancelled because "operations and performance in connection with the subject awards is not in compliance with" the "DEI" executive order.

When TPM asked if the substance of the HUD awards to Technical Assistance Collaborative had any relation to DEI initiatives, Martone replied: "None whatsoever."

HUD did not immediately return TPM's request for comment.

The cuts come as the Trump administration escalates the use of government action for explicitly partisan, often retributive, ends. On Tuesday, it revoked the security clearances for attorneys at law firm Covington & Burling over the firm's representation of former Special Counsel Jack Smith.

In this case, the act seems aimed at throwing the Trump administration's weight around. It sends a message that if contractors want to conduct business with the federal government, they cannot engage in anything that DOGE deems "DEI," even in areas totally unrelated to the work they perform as part of federal contracts.

Many of the eight targeted contractors featured language around diversity initiatives on their websites and LinkedIn profiles. Some touted the same kind of standard DEI principles that exist across the corporate and non-profit worlds. It's not clear if that's the kind of anodyne commitment that DOGE took as a reason to end work with the contractors.

Martone told TPM that HUD had initially cut contracts for his organization that dealt more explicitly with DEI initiatives in the week after the Trump "DEI" executive order was issued. After that, he said, HUD officials told him that other contracts would proceed so long as DEI-related work stopped. But HUD's move this week caught him completely off guard.

"None of it was related to or specific to DEI," he said. "We complied with those requirements by HUD for all intents and purposes. So in our mind when we look at that, we weren't in non-compliance with the order or anything."

Martone said that around 50 percent of his company's work was funded by HUD grants, and that he plans to appeal the rescissions.

Shaun Donovan, a former HUD Secretary who now runs Enterprise Community Partners, another affected contractor, said in a statement to TPM that his organization would also fight to keep the funding in place.

Donovan said that the programs support housing construction and maintenance, and help funnel money into homes for the elderly, and health care and childcare facilities.

"Make no mistake: Today's decision will raise costs for families, hobble the creation of affordable homes, forfeit local jobs, and sap opportunity from thousands of communities in all 50 states," Donovan added.

Rev. Rusty Bennett, the head of Collaborative Solutions, told TPM in a text message that he was informing staff of the cuts just as TPM contacted him for comment.

Other affected contractors, according to the HUD email reviewed by TPM, are Enterprise Community Partners, LISC, Cloudburst Consulting, Corporation for Supportive Housing, BCT Partners, and Homebase Center for Common Concerns.

In the message, the Office of Technical Assistance addressed employees by saying that the Trump administration had “cancelled all HUD funding,” including technical assistance awards for the eight contractors. The message ordered the contractors to “cease all substantive work” while giving them 90-120 days to wind down operations.



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EXHIBIT R-12

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

National Urban League, *et al.*,

Plaintiffs,

v.

Donald J. Trump, in his official capacity as
President of the United States, *et al.*,

Defendants.

Case No. 25-cv-471

NOTICE

Defendants provide this notice to clarify a statement made regarding Section 3(c)(ii) of Executive Order 14,173, during the hearing held on March 19, 2025.

Section 3(c)(ii) directs the Director of the Office of Management and Budget to: “Excise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures to streamline those procedures, improve speed and efficiency, lower costs, and comply with civil-rights laws.”

In response to the Court’s questions during the hearing, counsel for Defendants conveyed that her understanding at the time of the hearing was that this provision pertains to the Government’s internal procedures. She further informed the Court that she will correct the record if she learns otherwise. Following the hearing, counsel learned that changes to the federal procedures listed pursuant to this directive would not be fully internal to the Government. Private parties subject to Government agreements may be required to follow some of the relevant federal procedures, which, at times, are also specified in the agreements’ terms and conditions.

Counsel for Defendants apologizes for any confusion caused by her statements during the hearing, which reflected her best understanding at the time of the hearing.

Defendants continue to maintain that Plaintiffs lack standing to challenge this Provision because they have failed to allege any concrete injury stemming from any action taken by Defendants on the basis of this provision. Furthermore, for the reasons outlined in Defendants' Opposition, *see* ECF No. 38, Plaintiffs' challenge to this Provision fails on the merits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2025, I electronically filed this document with the Court by using the CM/ECF system, and that this document was distributed via the Court's CM/ECF system.

/s/ Pardis Gheibi

EXHIBIT R-13

The Singju Post

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Trump Remarks at Turning Point's AmericaFest 2024 (Transcript)

December 23, 2024 5:45 am / by **Pangambam S** / **Politics**



Read the full transcript of President-elect Donald Trump's remarks at TurningPoint's AmericaFest 2024 on December 22, 2024.

[Listen to the audio version here:](#)

0:00 / 1:14:15

TRANSCRIPT:

Election Victory and Gratitude

DONALD TRUMP: Well, hello, Arizona. It's great to be here. Nice to win the election, that's very nice to win. And I want to wish everybody a very merry Christmas. They don't say that too much anymore. We say it.

And when I had all that smoke backstage, I said, "Hey, are there any steps in front of me? I don't want to go down." I go down. That would not be good. We don't want to do that nice and slow. But I just want to thank you. What a beautiful production. This is what a great job the whole group does and amazing turning points, but amazing.

It's really been a tremendous numbers of American patriots. It's really been great. And you feel what happened last month. We had turning points, grassroots army, it's an army. They turned out to vote and they voted in record numbers and everybody else voted in record numbers, too. I have to tell you, and we did something that was really epic. We won a battle that a lot of people thought was very hard to win, you know, too big to rig. Remember what I said? "Too big to rig. We'll make it too big to rig." We're going to work. And it really was one of the great political victories in the history of our country.

And that's good. They said one of the very big radical leftist papers said the most consequential election in the last 129 years. And I said, "Couldn't they have made it a little bit longer than that? 129 years." But that's pretty good. But we won. Oh, it's so nice. We won the popular vote by a lot, by millions and millions.

Election Results and Swing States

And I used to hear in the first one, we won and we did great. And they always would say, "Well, he didn't this sort of, well, he didn't win the popular vote. He won the Electoral College." You know, they'd say that low. But we actually did very well then. But we did really well the second time. And this time, we said to hell with it. We've got to just blow them away. And that's all we did. We blew him away.

So we won all seven swing states. Remember they were saying, "Well, you know, we did very well in early voting, so we didn't have to win too much because we were way ahead." But they said, "Well, he only has to win two." But we won all seven. Can you believe it?

Huh? We won all seven. And we carried the great state of Arizona, something not easy for a Republican to do, but it was easy for us to do. And we had more than a six-point landslide. That's called the landslide here.

And not only did we reclaim the White House, we also took back the U.S. Senate, and we won the largest popular vote majority for House Republicans in a presidential year since 1928. That's a pretty good thing.

Gratitude to Supporters

And I want to express my tremendous gratitude to Charlie Kirk. He's really an amazing guy. Amazing guy. And his whole staff for their relentless efforts to achieve this very historic victory. It's such a great honor. It's not my victory. It's your victory. It's a great honor.

Man, we worked hard on this. We knew bad things happened in 2020. And if I didn't know that we won in 2020, I wouldn't have done this because it would have been like the ultimate poll, right? But we won by a lot. And this time, we said, look, now we got to really win by – and we won by so much, they just – you know, they threw all their placards. They wanted to protest. They were all set. And at about 9 o'clock, they said, "Man, this guy is killing us." They threw the placards. They went home. And we had no riots. We had no anything. It was a beautiful thing to watch. They just said, we lost.

Unity and Economic Plans

And we want to try bringing everybody together. We're going to try. We're going to try. And we want to try bringing everybody together. We're going to try. We're going to really give it a shot. **The thing that brings people together is victory. It's winning.** And we had that for much of – by far, you know, we had the most – we had the greatest economy in history in our first term. We can now call it a first term. We had the greatest economy in the history of our country – maybe in the history of any country, frankly. And we had – we did things that nobody could have done, and we're going to do them even better now. We're going to be drilling – as we say, drill, baby, drill – we're going to drill, baby, drill. But we're going to be doing a lot more than drilling.

Turning Point Action and Opposition

But I also want to give a very special thanks to everyone at Turning Point Action who outworked and outsmarted – always outsmart – you got to – you got to be smart, too – and outorganized the radical-left opposition. We had very strong opposition, not in terms of numbers, but I will tell you, some things happened because they are – that was a big defeat for them, that nobody expected the numbers. You know what happened? The pollsters went around, and whenever anyone said, “It’s none of your business,” they said, “Who are you voting for, or who did you vote for?” They said, “It’s none of your business.”

And sometimes they said much tougher language than that, but I’m not going to get into that because I’ll get in big trouble on the home front. And with Franklin Graham, please, sir – he says, “Please, sir, please don’t use foul language. You speak so beautifully. You can do just as well” – actually, it doesn’t work quite as well, but that’s okay. It’s just emphasis. But when they said, essentially, “It’s none of your business,” that was a Trump vote. And they had the highest numbers of people that said that because they don’t trust the press, et cetera. And we had the highest numbers.

And that’s why the polls were – showed us winning, but not winning in a landslide like we did. And we sort of knew that was going to happen. We could tell by the rally signs. Look at this. Here we won. There’s no reason except celebration, but that’s not a bad reason, is it? And look at the crowd. They have 7,000 or 8,000 people standing outside. They can’t get in. Would anybody like to give up their seat, please? Huh? You know, doing this for years, I don’t think I’ve ever had anyone say, “Yes, yes, I’ll give it up.” Just one person, nobody.

Democratic Opposition and Victory

The Democrats and the media said the Turning Point could never run a ground game. They weren’t experienced. They didn’t know Charlie, right? But when the ballots came in, the other side really didn’t know what the hell hit them. They got hit hard. And that victory was such an outstanding one, such a big one. And the other side now – and we don’t want this. We want people to be happy and healthy. But they did. They lost their confidence. If you watch television now, they’re all befuddled. They don’t know what the hell happened. They’re befuddled, to use quite a nice word that my mother used to use years ago, talking about somebody that’s a mess. But they did. They lost their confidence.

And hopefully, they’ll lose it for a long time and then come over to our side, because we want to – we want to have them. We want to have them. And we’re going to have some

inauguration on the 20th. We're going to have something. It's going to be great. It's going to be great.

Voter Demographics and Shifts

But something happened also in the election. All 50 states shifted toward the Republican Party, every single one of them. And together, we won the largest share of African American voters of any Republican in modern history. Actually, in history. We won more Hispanic American votes than any Republican ever. And we won the vote. We won the Latino men. Who is a Latino man? Do we have any Latino men? You're not a Latino man. Very beautiful woman, but a man you are not. Of course, nowadays, who the hell knows? But we won the Hispanic — I call Hispanic. I always said, "Do you like Latino or Hispanic?"

Let's go. Let's do a free poll. Who likes to be called Latino? Okay. That's what's always happening. Listen to this. Who likes to be called Hispanic? All right. Not as good as usual. But we won half of all voters aged 18 to 29. There's never been anything like that. We won by 36 young people. And we got the highest share of youth vote of any Republican ever before in history.

Youth Support and Social Media

And we had great people. You know, my son Barron said, "Dad, you got to see this one, that one, this one." He likes Joe Rogan a lot, too. He said, "You got to see Joe Rogan. Dad, you got to do an interview with these people." And he has a sort of a feel for young people. I guess that's a nice thing to have when you're young. But he has a feel for it. And it was amazing. So we got the highest vote ever for a Republican candidate. We won by 36 points with young people. That never happens. A Republican loses by 36 or 40.

So I'm going to have to start thinking about TikTok. I think we're going to have to start thinking. Because, you know, we did go on TikTok. And we had a great response. We had billions of views, billions and billions of views. They brought me a chart. And it was a record. And it was so beautiful to see. And as I looked at it, I said, "Maybe we got to keep this sucker around a little while." Who wants to?

Border Security and Sheriff Joe

Oh, look, I see Sheriff Joe. Sheriff Joe, could we use you on the border? Stand up. Sheriff Joe. Look at that. He had no problems with the border. If you could straighten your border out in two minutes, we'll put Sheriff Joe over there. And you're looking good, Joe. You're looking good. And we miss your wife, right? Your great wife. She's up there proud as hell of you. But he had no border problems. You didn't have any border problems. And we'll do that very shortly for you.

We're going to have you have a governor that doesn't know what the hell she's doing. You have people. You have people that don't know what they're doing. And we're going to change it because your border is a disaster. Your border is a disaster, what's going on. And you just have a few days to wait. We're going to be fully operational, I would say, by about 2 o'clock on the 20th. 20th of January.

Future Outlook and International Affairs

With your help, we gain 23 points with voters under the age of even 25. Think of that. We gain 23 points. And in the election of 2024, our movement not only won a mandate, but we built new American majorities all over the place and will define our country's future. I believe it's going to define our country's future for generations to come. That's going to happen.

You know, there's some people called up that are great people, actually. Great business leaders called. A lot of them. And some of them weren't exactly on my side, but they're on my side now. But they said there's a light over not only the country right now, but over the entire world. And it is happening. And we want to get some of these — we want to get some of these wars that would have never happened, like Russia, Ukraine would have never happened. Israel would have never been attacked. Would have never happened. We wouldn't have inflation. We wouldn't have had that Afghanistan horror show, that horrible, horrible — the way we left, leaving billions of dollars of equipment behind and 13 soldiers.

And, you know, nobody ever mentions — and I mention because I love them and they're all watching right now — 48 soldiers that were horrifically injured. Nobody ever — they lived and they don't talk about them, but these are incredible warriors that were hurt so badly with the legs and the arms and the face, and hurt so badly. Forty-eight. Forty-eight of them.

A Golden Age for America

And we love you. You're listening, and we love you. We're not forgetting you. And for all of us standing before you today, I can proudly proclaim that the golden age of America is upon us. It's going to be a golden age. It's going to be a golden age. There's a spirit that we have now that we didn't have just a short while ago. Sadly, we didn't have.

Who the hell can have a spirit? Watching women get beat up in a boxing ring? I don't think that's spirit, right? We're going to end that one quick. We're going to end it very quickly. We're going to end that one very quickly.

Economic Achievements

Since the election, the stock market has broken one record after another. The biggest gain of stock market after an election in history. That's a good sign. In a single month, small business optimism soared 41 points, which is a record. That's a record. Bitcoin has surged to an all-time record high of \$108,000. Congratulations. Congratulations.

And just last week, in an overwhelming statement of confidence in our leadership, the CEO of SoftBank, a very highly respected man in Asia, Masayoshi Son, you probably saw it announced, that he will be investing. And only because I won the election, he made that clear, only because he has confidence in the United States between \$100 billion and \$200 billion. And he's going to be investing. Equal to about 100,000 jobs, at least.

And all over the world, people are investing now. They're starting the investments, and it's going to be a beautiful thing with the jobs. But they're calling it the Trump effect because even before taking office, we're already bringing in the jobs and opportunity and safety and common sense back to the USA. We're bringing common sense back. Maybe that's the most important thing. I think common sense is the most important thing, not only are we seeing it at home, but we're seeing it abroad as well.

International Relations and Trade

The European Union is suddenly talking about buying vast quantities of natural American, beautiful natural gas. It's beautiful, and it's very inexpensive. It's a lot less expensive than windmills all over the place. A lot less expensive.

But I've informed Mexico and Canada that they will have to step up and stop the illegal aliens and illegal drugs from pouring into our country. Have to stop. And that goes for the European Union, and it goes for many other places. The European Union has treated us very, very badly. We have hundreds of billions of dollars worth of deficits. They don't take our cars. They don't take our agricultural product. But we take theirs.

And they've got to be careful. They can't treat us that way. They're not going to be treating us that way for long. That I can tell you. Because we're not going to let them turn the United States into a dumping ground. We're not going to let it happen.

We pay Canada in subsidies and deficits over \$150 billion a year. And you say, "Why are we doing that? Why are we paying Canada \$150 billion?" Essentially, we're paying Canada. And we love Canada. I have so many friends here. I love Canada. I love it. But why are we spending \$150 billion on Canada? Yet Canada allows people and drugs to flood in through our northern border.

You know, we have a northern border that's not doing so well either. Likewise, people are coming in from Mexico in numbers that have never, ever been seen before. We had 21 million people come in over the past four years. Think of that, 21 million people. And you see a lot of these people should not be here. They come from mental institutions and prisons from all over the world, not just South America.

Hundreds of thousands more are racing to get across before January 20th. You see it. And I was very strong with Mexico. I spoke to the new president, who is lovely, wonderful woman, and President Sheinbaum. Wonderful woman, actually. But I said, "You can't do this to our country. We're not going to take it anymore. You can't do it." But I've informed Mexico that it just cannot continue. We're not going to let it continue.

The Drug Crisis

The United States has lost 300,000 people a year. Think of that. I don't know. I mean, how many people? Everybody you meet said, "I lost my daughter, I lost my son to drugs, to fentanyl." Mostly to fentanyl, but to drugs. Families are being destroyed, and we're going to stop it. We're not going to let that happen.

And we're also going to be doing something that's, I think, going to help a lot. We're going to do very big advertising campaigns, just like a campaign for running for president. We spend a lot of money, but it'll be a very small amount of money, relatively. We're going to advertise how bad drugs are for you, how bad they are. They ruin your look. They ruin your face. They ruin your skin and ruin your teeth. If you want to have horrible teeth, take a lot of fentanyl. If you want to have skin that looks so terrible, take fentanyl. We're going to show what these drugs are doing to you. Nobody's done that before, and we're going to do it.

And that is, it's going to be like running a political campaign, just like running for president, just like we just did. We have some pretty good heads, right? Well, we explained what these people have done and how they're destroying our country. I mean, who would leave? Who would let millions of people pour in from prisons and jails and mental institutions?

And I always say, in state asylums, you know, the press gave me a hard time because sometimes they'd use the word, a name, Hannibal Lecter. They said, "Why does he mention Hannibal Lecter? That has nothing to do with it. Why would he?" I mean, are they stupid? The fact is that we don't want Hannibal Lecter. You know what that is? Silence of the Lambs. We don't want Hannibal Lecter, Dr. Hannibal Lecter, in our country, do we?

And you know what happened when they went to the voting booth or, unfortunately, they signed their mail-in ballot, but we got by it. We got to change all of that stuff. We got to have great, fair, confident elections. But when they went into the booth or they signed their ballot, they said, "Hannibal Lecter, that's a bad guy. We don't want him here." They knew that. They didn't like that. They didn't like that I used them because it's a good – it's a very good example. It's like incredible, incredible what they do. We need borders. We need fair elections. And we need a free and fair press. And we're going to try getting all of them.

The Panama Canal Issue

As another example of the things we're doing and looking at, it's such a terrible thing is happening. The Panama Canal is considered a vital national asset for the United States of America due to its critical role of American economy, the whole world economy, and also national security. The Panama Canal – has anyone ever heard of the Panama Canal?

Huh? Because we're being ripped off at the Panama Canal like we're being ripped off everywhere else.

A secure – he just said, “Take it back.” Is that a good idea? Where do you come from, sir? He doesn't come from Panama. Huh? Yeah, good. A secure Panama Canal is crucial for U.S. commerce and rapid deployment of the Navy from the Atlantic all the way to the Pacific. It's an incredible thing and drastically cuts shipping times down to U.S. ports by days and even weeks.

The United States is the number-one user of the Panama Canal, with over 72 percent of all transits heading to or from U.S. ports. Think of that. So we built it. We're the ones that use it. They gave it away. Considered one of the – really, one of the great wonders of the world.

The Panama Canal opened for business 110 years ago and was built at huge cost to the United States. And it really is big when you consider the lives and the treasure, the equivalent of \$1.2 trillion today. You don't hear those numbers. Thirty-eight thousand American men – almost all men – they went there to be construction workers and dig. They were diggers. And they were brave. Thirty-eight thousand men died from infected mosquitoes in the jungles of Panama during the construction period. Think of that. We lost 38,000 men.

Teddy Roosevelt was President of the United States at the time of its building and understood the strength of naval power and trade. When President Jimmy Carter foolishly gave it away – gave it away for \$1, \$1 – during his term in office, it was solely for Panama to manage and not for China or any other country to manage. You see what's going on there? China. It was likewise not given for Panama to charge the United States, its Navy, and its corporations doing business within our country exorbitant prices and rates of passage, which they do. They charge us like – like it's a disgrace.

Our Navy and commerce have been treated in a very unfair and injudicious way. The fees being charged by Panama are ridiculous, highly unfair, especially knowing the extraordinary generosity that has been bestowed to Panama, I say very foolishly, by the United States. This complete ripoff of our country will immediately stop. It's going to stop.

The United States has a big invested interest in the secure, efficient, and reliable operation of the Panama Canal, and that was always understood when they gave it to Panama. Can you believe that? We would never have done it if we thought what's happening now can happen, and we would never, and we will never, ever let it fall into the wrong hands. But it's falling into the wrong hands.

It was not given for the benefit of others by a token of cooperation, but it was given to Panama and to the people of Panama, but it has provisions. You've got to treat us fairly, and they haven't treated us fairly. If the principles, both moral and legal, of this magnanimous gesture of giving are not followed, then we will demand that the Panama Canal be returned to the United States of America in full, quickly, and without question. I'm not going to stand for it. So to the officials of Panama, please be guided accordingly.

Historical Context and President McKinley

William McKinley, the 25th President of the United States, was, because of the vast sums of money that he brought into our country, the person, really, who got us the money that President Theodore Roosevelt used to build the Panama Canal and a lot of other things, McKinley was a very good, maybe a great president. They took his name off Mount McKinley, right? That's what they do to people. Now, he was a great president, a very good president at a minimum.

He was a very good businessman. He was a businessman, then a governor, a very successful businessman, and then he ran for president, and he won. And he was able to use business principles, and he was a strong believer in tariffs. And we were actually probably wealthiest of any time, relatively speaking, at any point in the history of our country.

In the 1890s, we were so wealthy, we had commissions set up, what to do with all the money that we were taking in. We had no income tax. We only had tariffs. I consider that to be the most beautiful word in the dictionary.

But President McKinley was the president that was responsible for creating a vast sum of money in the United States that Teddy Roosevelt then spent. So let's say they were both excellent presidents, but McKinley did that, and that's one of the reasons that we're going to bring back the name of Mount McKinley, because I think he deserves it. I think he deserves it. There are lots of things we can name, but I think he deserves it.

That was not very gracious to somebody that did a good job. And as you know, he was assassinated. He was assassinated.

Future Plans and Cabinet Nominations

We have accomplished so much in just 47 days since the election, but that's only the beginning of what we will achieve together as the 47th president of the United States of America.

Over the past few weeks, I've nominated an all-star cabinet of some of the most fearless, determined, and brilliant individuals ever to step forward for public office. And we're getting great reviews, I have to say. They're all doing well. And we're getting fantastic reviews on the people that we chose.

It's we chose, because I wouldn't choose them if I didn't think you liked them. I'm not putting — I don't have that kind of courage. You liked every one of them, and everybody — I mean, people are amazed at the quality. Our Secretary Scott of the Treasury was — his central casting.

Cabinet Appointments and Military Strength

The whole group. It woke us out of our military to restore the unquestioned strength and fighting spirit of the American Armed Forces. I have appointed Pete Hegseth to be our next Secretary of Defense. He's going to be great.

You know, I've interviewed with him a lot on Fox. And all he ever wanted to talk about was the military, including when we were on. He'd talk about the military. He'd talk about how unfairly our soldiers were treated. Can I give a pardon to this one or that one who was treated so unfairly? They teach them to be fighting machines, and then when they fight, they want to put them in jail for 35 years. And he was very strong on that. That's all he wanted to talk about, really, and it just seemed so natural to me.

Plus, he had a great education, went to Princeton and Harvard, was a tremendous student. And he's a very vibrant, strong guy. I think he's going to be great. To make our intelligence community respected even more. I don't even think the word even is right because we had some bad years with these people. But we're going to do something. We're going to stop looking at all of these horrible foreign wars that we've gotten

ourselves through stupidity. We're in wars in countries that nobody ever even heard of before.

And we're going to be smart. We're going to be guided by strength, and we're going to have peace through strength like we had. I had no wars other than I wiped out ISIS. We wiped out ISIS in a small fraction. They said it was going to take five years. It took four weeks. We have a great military. Not the ones you see on television, the real generals.

But I've nominated Tulsi Gabbard as our Director of National Intelligence. And to be our next Secretary of Health and Human Services, I decided, look, something's going on here. When you look at, like, autism from 25 years ago, and you look at it now, something's going on. And I nominated Robert F. Kennedy Jr. Think of it. Think of this. Twenty-five years ago, autism, one in 10,000 children. Today, it's one in 36 children. Is something wrong? I think so. And Robert and I and all of it, we're going to figure it out.

But did you have your numbers like that? Something's wrong. Something's wrong. Likewise, there's been a 25 percent increase in childhood cancer and a staggering increase in chronic diseases. So, together, we're going to make America healthy again. We're going to make America healthy again. Something's happening. Something bad is happening.

Law Enforcement and Justice

And with the weaponization of law enforcement to restore fair, equal, and impartial justice, we will have an outstanding new Attorney General in Pam Bondi. She's fantastic. She is fantastic. Known her a long time.

And I'm very pleased to report that Christopher Wray is on his way out. He's resigned. He will soon be replaced by our next FBI director, somebody who I think is going to be one of the greatest, maybe the greatest director of them all, Kash Patel. I campaigned on an agenda of delivering profound change to Washington.

And last month, the American people voted for change like they'd never voted before and in overwhelming numbers, numbers that nobody saw coming. I saw coming. I think we all saw coming. When you went to the rallies, you saw that. We'd have, like we had in New Jersey, 107,000 people. And they'd go out the next day and they'd have 30 people,

maybe 40 if they were lucky. And then I heard how it was going to be a close race. I said, why is that? Why is that? I don't quite get that.

But now the Republican Senate majority is working very hard to confirm my nominees, and we appreciate it. And with the help of this dream team cabinet, and we have so many others I won't bother mentioning, you know every one of them, we're going to embark on the most exciting and successful period of reform and renewal in all of American history. We're going to do something that's going to be really, really special. You're going to be so happy.

Campaign Promises and Foreign Policy

And as you know, I made a series of big day one promises in my campaign. You know them just as well as I do. And 29 days from now, I intend to keep those promises to the American people. And just as we did four years ago, my administration will live by the motto, promises made, promises kept. We did keep our promises. And there's a new hat. There's a brand new hat that's out. I saw it yesterday, the first time, and it's selling like hotcakes. It says, "Trump was right about everything." And I don't want to brag, but we were right about just about everything, including foreign policy, these crazy wars that we're in.

One of the things I want to do, and quickly, and President Putin said that he wants to meet with me as soon as possible. So we have to wait for this, but we have to end that war. That war is a horrible, horrible — that the soldiers, the number of soldiers being killed, it's a flat plain, and the bullets are going, and there's powerful bullets, powerful guns. And the only thing that's going to stop them is the human body. They go dead flat land. Nobody's ever seen anything like it. Millions of soldiers have died now, millions. And we're seeing numbers that are just crazy.

Got to stop it. It's ridiculous. Would have never happened if I was President. That war would have never happened. And October 7th, Israel would have never happened either. So much — our country would be so different, and the world would be so different. But

it's not. So we have to make it great. We're going to make it great. We're going to do it as quickly as we can.

Immigration and Border Security

On my first day back in the Oval Office, I will sign a historic slate of executive orders to close our border to illegal aliens and stop the invasion of our country. And on that same day, we will begin the largest deportation operation in American history, larger even than that of President Dwight D. Eisenhower. And as part of Operation Aurora — you know all about Aurora, how horrible that's been — every single foreign gang and illegal alien member, all of this criminal network operating on American soil, will be dismantled, deported, and destroyed. Got to get them out. Think of it.

They sent their gang members to us. Busload after busload. We had an open border. Their gang members, their drug dealers, their drug addicts, people that were sick, people that were healthy and strong. What the hell was that? You get the little yips up here every once in a while. I wonder why. That was a strange sound. Heard some very strange sounds.

Every foreign gang member will be expelled, and I will immediately designate the cartels as foreign terrorist organizations. We're going to do it immediately. And we'll unleash the full power of federal law enforcement, ICE, Border Patrol. How good is — by the way, how good is Tom Holman, right? He's phenomenal. I've known him a long time. I'll bet you Sheriff Joe likes Tom Holman, right? Sheriff Joe, yes? Yep. He goes, yep.

The DEA, the FBI, the intelligence community, and financial sanctions to remove the migrant gangs and criminals that are killing and raping and maiming our citizens. We're going to get them out. We're going to get them out. We're going to get them out fast. We have no choice. We have no choice, by the way. I don't want to do that, but we have no choice.

The last thing I want to do could have been so much easier. The election wasn't rigged. We could have been — it would have been a much different thing. But this will show something. This is going to show how we do it and how good we are. You know, we showed how the opposite philosophy runs a country, and it wasn't good. They had an approval rating today of 14 percent. Nobody's ever heard — nobody's ever had an approval rating of 14. That's the lowest approval rating, and we're going to have a very

high — in fact, we already have a very high approval rating. We're way up. Way, way, way up. Higher than almost anybody. Higher than anybody has at this point.

We will end the occupation, and January 20th will truly be Liberation Day in America. Is that okay? Liberation Day. And this great liberation will be in honor of all of the victims of migrant crime and all of the angel moms and angel dads who have lost their really incredible kids that — you know, they're going around for years and years, and I talk to them all the time. I know so many of them, and many of them are here. And we can just say, "We love you. We're with you." They had so little help from the politicians on the other side.

Patty Morin's Story

We're joined today by Patty Morin, the mother of Rachel Morin, who you know all about, a beautiful mother of five who was murdered by an illegal alien monster who entered our country under the open-border policies of the Biden administration. Your borders are always not too good. Your borders are — that was not Tom Homan, I can tell you. But, Patty, those days are over, and they will soon be over. I hope we're just not going to have — how can you say never again? But we're going to have as few as possible. It's going to be rough, and it's going to be rough on the ones that do that kind of damage to you and to our country. Where is Patty? Is she here someplace?

I just want to thank her. Hi, Patty. Thank you very much. Thank you very much for being here. Appreciate it. Thank you very much. Do you want to come up for a second, Patty? Huh? Do you want to come up? She's — I had lunch with Patty, and she suffered. She suffered greatly. I said, "Let me help you with your eyes," because I want to help her with her eyes. She has an eye situation that can be fixed with some medical help. Many of them can't be fixed. I said, "Patty, get your eyes taken care of. I'll take care of it. Just get it done." I hope you got it done. Did you have them done yet? Did you have it done yet, Patty? Huh?

Just get them done, okay? Okay. Good. She's going to get them done in January. Good. Thank you. Thank you.

[Patty Morin speaks]

PATTY MORIN: The first time I met President Trump in person, he invited us to lunch, my attorney and I. And to be honest, I didn't do anything. I just sat there. I didn't really speak, because I wanted to watch the man and listen to what he had to say and what his conversation was like, because I knew he wasn't a politician, but I knew that he had been president before, and I wanted to see if he was a real, authentic man who actually cared for the American people.

And so I watched him. I watched how he interacted. I also watched how much his staff really respected him and how much his staff loved working for him. But the thing that changed the way that I looked at him as a person was I realized that he was a dad, that he was a grandfather, and when you spoke to him, you could see in his eyes that he genuinely cared about his fellow human beings.

But the thing I appreciate the most is that he heard the cries of a mother, and he cared. And he made a promise that he was going to protect us and that he was going to help us. And that's all you can ask from your president, but also just from a fellow human being. And so I personally, I am so honored to know this man. And so think of you as his friend. Thank you.

[Trump resumes speaking]

DONALD TRUMP: Thank you very much. He's been through hell. Who wouldn't be? I mean, so many people, so many – I call them angel moms, and they are – they go through hell. And many of them say it doesn't get any better, but we have to hope it does get better.

Border Patrol and Security

Also with us is a very special guy, the president of the National Border Patrol Council, Paul Perez. He's incredible. He's doing a fantastic job, and he wants to do the job right. Hey, Paul, come on up here, Paul, quick. Quickly.

Paul, in one month, the Patriots of Border Patrol will once again have a president who will back you and will have you, and we're going to work together, as we have done in the past. You know, we had the safest border in the history of our country. And you remember the famous sign that I pulled down? That sign was about how good the border was. I haven't used that sign much lately. Well, we won, so I guess I don't have to use it,

but we really do have to use it because the fact is that we have to have strong, safe borders, and we have to have men like this and women who are doing an unbelievable job.

I've gotten to know a lot of them. I'll tell you what, they're tougher than I am. I don't want to mess with them, right? But this man has done, as the head, and also replacing a very good guy. We know that, right? And he's going to have a good life, I hope he's going to, because he was a very special guy, and you're a very special guy. Say a few words, please, Paul.

[Paul Perez speaks]

PAUL PEREZ: I mean, we're back. America is back. The strength and security that Donald Trump brings to the White House is what we've needed. He's done it before. He's going to do it again. We're going to make all of these communities safe. And like Tom Holman said, if you're not going to help, get the hell out of the way. Donald Trump is by far the best president in the history of this country, and he's going to show everybody exactly why. Thank you.

[Trump resumes speaking]

DONALD TRUMP: Thank you very much, Paul, and everybody, and Brendan, Judd, all of the people. They do such an incredible job.

We're also pleased to be joined by a man who just also – we really did well in Texas, and I heard Ted's speech. And he can come up and speak more of me once, or he can just – you know, Ted's going to be going to a big event in a little while. Where's Ted Cruz? Is he here? He's here someplace? Ted? Ted? Oh, he's in trouble. No, he was – he was here. Oh. Oh, good. He's not in trouble.

[Ted Cruz speaks]

TED CRUZ: Keep Texas, Texas. Amen. And I've got to say, this election has given President Donald J. Trump, a Republican Senate and a Republican House, a clear mandate to deliver on our promises.

One month from today, President Trump will secure the border. We are going to bring back jobs. We are going to lower prices. We are going to protect American families. We are going to put criminals in jail. We are going to keep our kids safe. We are going to end foreign wars with victory. And I'll tell you, Mr. President, the results of this election – seven battleground states, you won all seven. The people elected a Republican Senate and a Republican House to have your back, and we are going to deliver results.

And if I could speak parochially for a minute, one of the most consequential things that happened in this race in Texas – you won profoundly in Texas, and both you and I won a majority of Hispanic votes in the great state of Texas. That is unprecedented. That is generational change, and it demonstrates that we are going to protect our nation. We are going to bring our country back, and we are going to make America great again.

Trump's Response and Acknowledgments

DONALD TRUMP: Thank you. He's a great – he's actually a great guy. Was really out there working – oh, I'm so glad he was here. Oh, that was – That was an amazing moment. But we want to thank him. He had a great race and did a fantastic job against, like, 250 million spent against him. But Texas was very special, and it will remain very special. It's doing really – excellent people. Great people. And the governor is doing a fantastic job in Texas. The senator, Dan Patrick, everybody is doing. Attorney General.

Also, I want to bring up, if I could, or just say hello to him. He's on the outskirts. He's got a lot of people in this room. You've got a lot more people outside than you have in the room. The RNC Chairman Michael Whatley, who was so fantastic in what he did with Laura. The two of them were so great. There's Michael. Come on up, Michael. Come here. This guy did some job.

Michael Whatley's Speech

MICHAEL WHATLEY: Thank you, sir. Thank you very much. It takes three things to win in a battleground state. Number one, you've got to get out the vote. Number two, you've got to protect the ballot. And number three, you have to have a great candidate who runs a great race. The people in this room helped us get out the vote. They helped us protect the ballot. We would not have been able to win all those battleground states without you. But when it comes to having a great candidate who runs a great race, there is simply

nobody better, ever, than the 45th and now 47th President of the United States of America, Donald J. Trump.

Trump's Acknowledgments of Supporters

DONALD TRUMP: Thank you very much. He really has. He really has. And Lara has done an incredible job. What a pleasure. They were fighting. They had so many lawyers. They were fighting the enemy like you wouldn't believe. I mentioned Tom Holman, but especially he's going to do so well.

A friend of mine who I haven't seen in a little while, Matt Gaetz, is here. Where's Matt? He's around here someplace. Matt Gaetz. He's got a big career set up. And I just want to say hello to Matt.

And Arizona GOP Chair, Gina Swoboda. Wow. She's — she is very — Gina? Where's Gina? Because we're going to be backing Gina to run again. There she is. Gina? Gina, are you going to run again? Yes? Because if you do, you have my endorsement. So that should be good. Thank you. Thank you, though. Great job you've done.

A great professional golfer, a friend of mine. He's really a good golfer. Tom Pernice is here someplace. Tom, wherever you may be. Hello, Tom. Don't play him in golf. Play him in other things, but not golf.

Trish Duggan is here, who is just a fantastic — where is Trish? She's one of my great friends. Thank you very much. Has she helped? Trish has helped us so — at a level that very few people can even dream of. So I want to thank you very much. Trish Duggan, please. Thanks. Where's Trish? Thank you, Trish.

I think I see Kari Lake. Is that Kari Lake? Yes. Hi, Kari. Stand up, Kari. Hi. Hi. Good job. Worked hard. That was — she's a good — a good woman. And she's going to be doing something very big. Maybe bigger. It's a big one that you have. So good luck with it. You're going to do well. Going to turn that around like nobody ever saw before. So thank you very much for accepting it.

Sergio Gor, a friend of mine who's doing a fabulous job. Leave a comment. Leave a comment. Thank you. Thank you. Thank you. He's doing a fabulous job leading the presidential personnel. He's really working hard. Where's Sergio? Is he around here

someplace? Sergio, where is he? Hi, Sergio. Good job you're doing. We have some big announcements over the next few days too — big ones.

A great actor has been with us for a long time, when it wasn't fashionable. Rob Schneider. Rob. He was here with a few of his friends when it wasn't quite as fashionable, right, Rob? But you were here. Thank you very much. Great job you're doing too.

Karen Robson. Where is Karen? Karen is here. And she's — are you here? Running for governor? She's going to be running for governor. Where's Karen? Hi, Karen. Hello, Karen. Are you running for governor? I think so, Karen, because if you do, you're going to have my support, okay? You're going to have my support.

A man that is very non-controversial, a very unique — he really is a unique person, but he doesn't like controversy. His name is Steve Bannon. Has anyone ever heard of Steve? Where's Steve? Hello. Hi, Steve. A big, powerful voice he's got. His show is phenomenal. War Room. And thank you, Steve. There's nobody like Steve. Thank you very much, Steve.

And a Phoenix police officer who was shot eight times in the line of duty, Tyler Moldovan, who I just saw backstage. Where's Tyler? Oh, he's got to be right there. There he is. Hi, Tyler. Thank you, Tyler. Hi, Tyler. Wow. Thank you, Tyler. Eight times. Can you believe that? Think of that, eight times, and he's looking great. Thank you very much. And to your family, beautiful wife.

Policy Promises

With the stroke of my pen, on day one, we're going to stop the transgender lunacy. And I will sign executive orders to end child sexual mutilation, get transgender out of the military and out of our elementary schools and middle schools and high school. And we will keep men out of women's sports. And that will likewise be done on day one. Should I do day one, day two, or day three? How about day one, right?

Under the Trump administration, it will be the official policy of the United States government that there are only two genders, male and female. It doesn't sound too complicated, does it?

To rescue our economy, I will sign day one orders to end all Biden restrictions on energy production, terminate his insane electric vehicle mandate, cancel his natural gas export ban, reopen ANWR in Alaska — the biggest site, potentially, anywhere in the world — and declare a national energy emergency. And do we have great people in energy — head of energy, Chris Wright. And Doug Burgum is the interior. And they — I merged both of them. You know, the energy had no energy. It just had the right to do energy. And interior had all the energy, but it didn't have the right to drill. So I merged them. And they're great friends. They're both very talented people. We're going to have so much oil and gas and other things, you won't know what to do with it. You'll say, "Please, President Trump, stop. We have too much. The prices are going too low, sir." Remember, we were \$1.84 a gallon gasoline. Wouldn't that be nice?

I will direct every Cabinet Secretary to cut 10 old regulations for every new regulation, which I did last time. We'll be getting rid of a lot of — last time, last term, for me, we had — we did something special. We cut more regulations by four times than any other President in history, and we're going to top that record. Some of those ridiculous regulations were immediately put back on, and they were just hurting our country. That's why we had the best job numbers ever, because of what we did with regulation. You know, we cut taxes more than any President in history, and we cut regulations more than any President in history. And when I asked the people that run the big companies, which is more important, cutting the taxes or cutting the regulations? Every single one of them so far has said the regulations were more important for jobs and everything else. Who would think that?

But I will order federal workers to get back to the office in person or be terminated from the job immediately. And we will create the new Department of Government Efficiency, headed by Elon Musk.

Clarification on Elon Musk's Role

And no, he's not taking the presidency. I like having smart people. You know, the — they're on a new kick — Russia, Russia, Russia, Ukraine, Ukraine, Ukraine, all the different hoaxes. And the new one is, President Trump has ceded the presidency to Elon

Musk. No, no, that's not happening. But Elon's done an amazing job. Isn't it nice to have smart people that we can rely on, okay? Don't we want that?

He's done a great job. And I'll tell you, he — he landed that rocket a few months ago. It landed. It's coming down so fast — 17,000 miles an hour, he says — and coming down, it looks like it's getting ready. And then, all of a sudden, the jets go on, it slows it down, then it's almost stopped it. And it guides it over left, right, up, high, down. I said, what the hell is going on? Because nobody ever saw this before.

And then it has the big gantry, very expensive. It looks like it's going to be smashed to smithereens. And then those jet engines roared from the bottom. It's coming in this way, a little hot. And the engines — bwah — pushed it straight, it landed. And it was like you're hugging a beautiful baby. Baby. No, not that baby.

But it was — it was the most incredible thing. And then he got into his car, and or plane, or whatever — however he went, and he went to Pennsylvania. And he stayed up there for a month and helped us to win that state, which we won by a lot. So he was really good.

And he supplied Starlink for North Carolina, where they had no form of communication. They said, "Sir, do you know Elon Musk?" Yeah. He said, "We can't get Starlink. It's very hard to get." And I called Elon, we have to get some up there, you got to get some up there. And he got over 2,000 units, that's a lot. And they flooded it with Starlink, and it was so good, it saved a lot of lives. So we want to thank him.

But no, he's not going to be president, that I can tell you. And I'm safe. You know why? He can't be. He wasn't born in this country. But the fake news knows that. No, he's a great guy, and we want to have him, everybody.

So many people are in this audience that have helped, to an extent that you wouldn't believe. But we're going to bring transparency and accountability back to our government. And we'll be very soon, you're going to see it drain the swamp. We're going to be draining that swamp at levels never seen before.

Congressional Report and Political Commentary

And I hope everybody goes home and reads the congressional report on the criminal activities of the unselect committee of political thugs, J6 committee. What they did is so

illegal. And Congress has done a fantastic job on that. They just put out a report, they call it an interim report, it's brutal. On them, not on me, on them. And it's terrible what they've done. What they've done to this country is just absolutely terrible.

But we'll end the left's campaign of racial discrimination and restore equality to our land and all over our land. And you see that happening so much with the vote and the kind of vote we got. Nobody ever expected anything like that. And I'll end all of the Marxist diversity, equity, and inclusion policies across the entire federal government immediately. And at the same time, we will ban these unlawful policies from the — we're going to ban them from the private sector as well.

In America, we believe in the merit system — the merit system. And now, because of the major decision handed down recently by the Supreme Court, our country has again gone back to the merit system. That's what made our country great. And I want to just thank the Supreme Court because that took a great deal of courage for them to do that. And some people were surprised by it, but that's what made us great. Merit made us great.

Military and Defense Policies

I will direct our military to begin construction of the great Iron Dome Missile Defense Shield, which will be made all in the USA, much of it right here in Arizona. You know, Ronald Reagan wanted to do it many, many years ago, but they didn't really have the technology. It's lucky that he didn't because they didn't, but they have it now and can knock a needle out of the sky.

And as Commander-in-Chief, I will restore the proud and historic names of our great military bases like Fort Bragg. We're going to get them back. And WOKE has to stop because, along with everything else that's destroying our country, we're going to stop WOKE. WOKE. WOKE is bullshit.

As an example, in addition to the military bases, I understand they want to now rename 14 ships. We're going to rename them. Some of these ships have had a great and glorious past. They want to take the name off and put another name down. I don't know. I can imagine whose name they're going to put up. It's not going to happen with me. It's not happening with me, I can promise you.

Vision for the Future

The actions I have described today are just a small preview of the common-sense revolution — because that's what I call it, a common-sense revolution that's coming soon to America, to a theater near you, right? But it's coming to you through your President, Donald J. Trump. The people have given us their trust, and in return, we're going to give them the best day one, the biggest first week, and the most extraordinary first 100 days of any President in American history.

And in conclusion, on January 20th, the United States will turn the page forever on four long, horrible years of failure, incompetence, national decline, and we will inaugurate a new era of peace, prosperity, and national greatness. It's going to be — national greatness will be something very, very special. And you could use a little of that because you haven't seen any of it in four years. What's happened to our country is so sad.

We're going to cut your taxes, end inflation, slash your prices, raise your wages, and bring thousands of factories roaring back to America, and right back here to Arizona, because — because when I agreed to do this — and I had to do it for Charlie, because he's special. But I said, Charlie, I'll do it, but this has to be also a real tribute to Arizona, because they gave us such a big win. And I said, I'll get in my plane at 4:45 in the morning, and I'll fly here. But we have to really acknowledge and take care of the people of Arizona, because you were fantastic. And I just want to thank you for that big win — not an easy win.

And we're going to build American, we're going to buy American, and we will hire American. I will end the war in Ukraine. I will stop the chaos in the Middle East. And I will prevent, I promise, World War III — and we're very close to World War III.

Law Enforcement and Crime

We will crush violent crime. We're going to stop violent crime. We're going to have to be tough. Please get ready. You're going to have to be tough. We can't let this happen. Our cities are crumbling. We give our police the support, protection, resources, and respect they so dearly deserve.

And I rebuilt our entire military at a level that it had never been. Unfortunately, we gave a big chunk of it to Afghanistan. You believe that one? What a terrible thing. But we will, again, rebuild those sections of our military that have been so badly hurt. Because we give so much of it away.

You know, when I came in the last time, we had no ammunition. Can you believe it? This is — I was greeted with a general, “Sir, we’re very low, almost no ammunition.” They said, “Keep it quiet. Let’s not let the enemy know that.” That doesn’t sound too good. Steve Bannon would say, that’s not a good thing. No ammunition is not good. Right, Steve? And I built so much ammunition so fast. You guys have never seen anything like it. We give a lot of our ammunition away, as you know. And we have to take care of ourselves, we have to protect ourselves. And we have to make our country great. We just can’t keep doing what we’re doing, especially when these wars never had to start. They never had to start.

Urban Renewal and Education

We will rebuild our once-great cities, including our capital in Washington, D.C., making them safe, clean, and beautiful again. And we’ll do it quickly. We’ll teach our children to love our country, to honor our history, and to always respect our great American flag. We will get critical race theory and transgender insanity the hell out of our schools. And we’re going to get it out of our schools very fast.

I will defend religious liberty, I will restore free speech, and I will defend the right to keep and bear arms. And after years of building up foreign nations, defending foreign borders, and protecting foreign lands, we are finally going to build up our country, defend our borders, and protect our citizens. We’re going to protect our citizens.

Immigration and National Identity

And we will stop illegal immigration once and for all. It’s going to stop. You’re not going to have an invasion of our country any longer. That will stop in just a few very short weeks. We will not be occupied. We will not be overrun. We will not be conquered. We will be a free and proud nation again, a nation led by competent people, a nation that we can be proud of. We’re going to be so proud of our nation. We already are. It’s already happened. Remember what I said, there’s new light all over the world, not just here, all over the world.

Everyone will prosper, every family will thrive, and every day will be filled with opportunity and hope, and will be filled with a thing called the American Dream. Get up the American Dream board. For the past nine years, you and I fought side by side against the most sinister and corrupt forces on Earth. And in our magnificent victory on November 5th, you showed them once and for all that this nation does not belong to

them. This nation belongs to you. That's what happened. It was hardworking patriots like you who built this country. And in 2024, it was hardworking patriots like you who turned out and voted and saved our country. That's what happened.

Closing Remarks

After all we have been through together, we now stand on the verge of the four greatest years in American history. We're going to make these the four greatest years in the history of our country. With your help, we will restore America's promise. We will rebuild the nation that we love, and we will do it very, very fast. That's what we want.

We are one people, one family, and one glorious nation under God. We will never give in. We will never give up. We will never back down. And we will never, ever, ever, ever surrender. Together we will fight, fight, fight, and we will win, win, win. We're going to win a lot.

And together we will make America powerful again. We will make America wealthy again. We will make America healthy again. We will make America strong again. We will make America proud again. We will make America safe again. And we will make America great again.

Thank you very much. And thank you, Arizona. Happy New Year. Merry Christmas. Thank you.

EXHIBIT R-14

**Statement of Former Equal Employment Opportunity Commission (EEOC)
Officials on Employer Diversity, Equity, and Inclusion Efforts**

April 3, 2025

Dear Legal Community:

On March 19, 2025, EEOC Acting Chair Andrea Lucas issued a document entitled “What You Should Know About DEI-Related Discrimination at Work” (“Acting Chair’s document”).¹

The Acting Chair’s document seems designed to convey the message that initiatives to advance diversity, equity, and inclusion (“DEI”), which the document does not define, are fraught with legal peril. This document ignores important aspects of applicable law, as well as the reality that proactive efforts are still needed in America’s workplaces to provide equal opportunity for all employees and applicants. To the extent the Acting Chair’s document chills such efforts, we believe it does a grave disservice to employers, their employees, and America’s economy.

Under well-established legal principles discussed below, employers lawfully may – and indeed should – take proactive steps to identify barriers that have limited the opportunities of applicants and employees based on any protected characteristic. Properly constructed, such efforts are not discriminatory. To the contrary, they can help prevent and address the discrimination that continues to deny equal employment opportunities to qualified workers and applicants and prevents employers from utilizing the full talent of our communities.

An Employer’s “Interest in Diversity”

Many employers recognize the importance of having a diverse and inclusive workforce. Research is clear that such workforces can increase the economic bottom line for companies and can enhance productivity and innovation across the board for all organizations.² In addition, it is well-established law that employers may express their interest in providing equal opportunity by having a policy that embraces diversity and by working to address barriers.³

¹ This document was issued by the Acting Chair without a Commission vote and thus represents her views. We therefore describe this document as the Acting Chair’s Document.

² Examples include Katherine W. Phillips, [How Diversity Makes Us Smarter](#), Scientific American (2014)(summarizing research on positive aspects of diversity on innovation, decision-making and productivity); McKinsey, [Diversity Matters Even More](#) (2023) (global data shows that companies with the largest representation of women and the highest level of ethnic diversity in executive leadership were nearly 40% more likely to financially outperform compared with the companies with the lowest levels of diversity – and that this gap has grown over time).

³ *Peterson v. Hewlett-Packard Co.*, 358 F.3d 599 (9th Cir. 2004) (goal of diversity policy to reduce sexual orientation discrimination is consistent with goals of civil rights laws); *Bernstein v. St. Paul Companies, Inc.*, 134 F. Supp. 2d 730, 739 (D. Md. 2001) (“A company’s (or its CEO’s) commitment to ‘diversity,’ if expressed in terms of creating opportunities for employees of different races and both genders, or fostering workplace tolerance, is not proof of discriminatory motive with respect to any specific hiring decision.”); *Lutes v. Goldin*, 62 F. Supp. 2d 118, 131 (D.D.C.1999) (concern for ensuring equal

Unfortunately, the Acting Chair's document suggests that an employer having an *interest* in having a diverse workforce means that the employer will use illegal race and sex-based preferences to serve that interest.⁴ That is simply not true. Employers can and do adopt effective and lawful mechanisms to support diversity by advancing equal opportunity for *all* employees, without the use of illegal preferences.

Training to Promote Inclusion, Belonging, and Equal Opportunity

Employers have deployed a wide range of training to prevent discrimination, including harassment in the workplace. Common workplace training teaches employees how to recognize, avoid, and report forms of harassment and discrimination based on protected characteristics. Other training provides employees with an opportunity to learn about different perspectives and experiences in the workplace. Recently, some skills-building training has focused on how to create respectful workplaces for everyone.⁵

Many types of training can help employers meet their legal obligation to prevent harassment and other forms of discrimination in the workplace.⁶ Indeed, the EEOC has stressed in Commission-approved documents – which represent the agency's official position – the importance of training to advance this goal.⁷

Despite that precedent, the Acting Chair's document discourages employers from providing "DEI-related training" (a term that the document does not define) by raising the specter of exposure to hostile work environment liability because of the way in which

opportunity and removing barriers does not support a claim of discrimination when there is no evidence of any preference for one group over the other).

⁴ Question 9 in the Acting Chair's document asks the following: "Can an employer justify taking an employment action based on race, sex, or another protected characteristic because the employer has a business necessity or interest in "diversity," including preferences or requests by the employer's clients or customers?" The document's answer is the following: "No. Employers violate Title VII if they take an employment action motivated—in whole or in part—by race, sex, or another protected characteristic. Title VII explicitly provides that a 'demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination.' . . . Title VII does not provide any 'diversity interest' exception to these rules."

⁵ See Chai R. Feldblum & Victoria A. Lipnic, EEOC, [Select Task Force on the Study of Harassment in the Workplace](#), at 23-30 (June 2016) (describing range of training and summarizing research on utility of training.)

⁶ *Faragher v. City of Boca Raton*, 524 U.S. 775, 807 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 765 (1998) (discussing affirmative defense to harassment liability available where, among other things, an employer "exercised reasonable care to prevent and correct promptly any sexually harassing behavior" such as by informing employees of internal anti-harassment policies).

⁷ See, e.g., EEOC, [Amicus Brief in Vavra v. Honeywell International, Inc.](#), No. 23-2823 (7th Cir. Feb. 6, 2024) at 14-20; EEOC Strategic Enforcement Plan, Fiscal Years 2024-2028 at 18 (stating that "the EEOC will support employer efforts to implement lawful and appropriate diversity, equity, inclusion, and accessibility (DEIA) practices that proactively identify and address barriers to equal employment opportunity, help employers cultivate a diverse pool of qualified workers, and foster inclusive workplaces."); EEOC's Guidance on Race and Color Discrimination (Apr. 19, 2006), Section IX, *Proactive Prevention* (encouraging employers "to reduce the likelihood of Title VII violations and to address impediments to equal employment opportunity" through proactive measures such as conducting self-analyses and enhancing outreach).

the training is conducted. For example, the document states that liability could arise when the training is unwelcome, “depending on the facts.” The document then states that “an employee may be able to plausibly allege or prove that a diversity or other DEI-related training created a hostile work environment.”⁸

Facts are very important in this area. Indeed, it is rare for employees to meet the necessary legal standard to establish that a “DEI-related training” created a hostile work environment.

As the Acting Chair’s document itself acknowledges, an unlawful hostile work environment hinges not on whether conduct or remarks make an employee uncomfortable, but on whether the conduct or remarks are based on a legally protected characteristic and are “so frequent or severe that a reasonable person would consider [them] intimidating, hostile, or abusive.”⁹ In fact, courts have been clear that an employee’s general discomfort with a training focused on race, sex, or another protected characteristic is not sufficient to create a hostile work environment. That is because discomfort is not equivalent to harassment.

Most diversity training does not single out a specific group for criticism or allow inappropriate physical contact, as alleged in a few cases where the allegations were sufficient to allow plaintiffs to proceed on their claims of harassment based on training. In one case, the plaintiff survived a motion to dismiss because he alleged that women during a sexual harassment training touched his genitals during a simulation.¹⁰ In another case, the plaintiff survived a motion to dismiss because he alleged that he was required to attend numerous conferences and trainings that “ascrib[ed] negative traits to white people or white teachers without exception and as flowing inevitably from their race,” and had to endure a consistent barrage of negative comments about white people.¹¹ The Acting Chair’s document would have been more helpful if it had explained to employers that their training should not include such approaches.¹²

⁸ In response to question 10 regarding training, the Acting Chair’s document states: “In discrimination cases involving anti-discrimination trainings, courts have ruled in favor of plaintiffs who present this type of evidence” of “how the training could be discriminatory – for example, in design or execution,” “or, at the motion-to-dismiss stage, who make plausible allegations that explain how the training was discriminatory.” The document’s citation is to the Brief of EEOC as Amicus Curiae in Support of Neither Party, *Vavra v. Honeywell International, Inc.*, No. 23-2823 (7th Cir. Feb. 6, 2024) at 21. The Acting Chair’s document does not reference the Guidance on Harassment voted on by the Commission and issued last year. [Enforcement Guidance on Harassment in the Workplace](#) (CVG 2024-1, April 29, 2024), which addresses training. Because the Guidance on Harassment was approved by a majority vote of the Commission after extensive public comment, it represents the Commission’s official view.

⁹ See Acting Chair’s document, Response to Question 10.

¹⁰ *Hartman v. Pena*, 914 F. Supp. 225 (N.D. Ill. 1995).

¹¹ *De Piero v. Pa. State Univ.*, No.23-cv-2281, 2024 WL 128209, at *7 (E.D. Pa. Jan. 11, 2024). After a full factual record was developed, the employer moved for summary judgment, which the court granted in March of this year. *De Piero v. Pa. State Univ.*, 2025 WL 723029 (E.D. Pa. March 6, 2025).

¹² The Acting Chair’s document does not cite a number of cases where plaintiffs’ alleged harassment claims based on trainings lost at a later stage of the case, when employers filed motions for summary judgment following development of the factual record through discovery, even after surviving a motion to dismiss. *Chislett v. New York City Dept. of Educ.*, 723 F. Supp.3d 285 (S.D.N.Y. 2024), *appeal docketed*,

Employee Resource Groups

Employee Resource Groups, Employee Business Groups, affinity groups or entities by other names are typically established to foster mutual support for groups of employees. These kinds of voluntary workplace employee resource groups can help employees thrive and do their best work.

The Acting Chair's document recognizes that employee resource groups must – and can – be implemented consistent with anti-discrimination law. But the language used in the document may unnecessarily heighten employers' concern about establishing groups that are formed around the goal of sharing common interests and experiences, including those that focus on issues of race, gender, ethnicity, religion, veteran status, sexual orientation, gender identity, or disability.¹³

Under the law, there is no prohibition on organizing voluntary employee resource groups to address common experiences and provide a supportive environment. To ensure these programs are fair and non-discriminatory, such groups should be open to all employees. For example, an employer may establish a group dedicated to supporting women in the workplace, but all employees – regardless of gender – should be permitted to join the group on the same terms. The group may restrict participation to those who support the objectives of the group in a manner that applies equally to all employees regardless of background. An employer must also apply the same approval process and criteria, including for material support, to employees who are interested in organizing an employee resource group that address common experiences of men or non-binary employees.

A Positive Forward-Looking Framework for Employers

It is important for employers to have guidance on a positive forward-looking framework for lawful ways to increase diversity and remove barriers to equal employment opportunity in their workplaces. Unfortunately, the Acting Chair's document is inadequate to that task. Accordingly, in addition to the legal efforts described above, we discuss below some other legally permissible efforts that can be a part of a comprehensive effort to promote equal opportunity.

24-972 (2d Cir. 2024); *Shannon v. Cherry Creek Sch. Dist.*, 2022 WL 4364151 (D. Colo. Sept. 21, 2022); see also *Young v. Colorado Dept. of Corrections*, 94 F.4th 1242 (10th Cir. 2024) (affirming district court's dismissal of harassment claim based on mandatory diversity training). See also [Barrett v. Dep't of Agriculture](#), Appeal No. 2019005478 (Mar. 7, 2024) (EEOC ruling that the Department of Agriculture did not discriminate against an employee based on his religion when it did not exempt him from a mandatory training about the need to treat all customers and employees with courtesy and respect, including members of the LGBTQI+ community.)

¹³The Acting Chair's document says: "In the context of DEI programs, unlawful segregation can include limiting membership in workplace groups, such as Employee Resource Groups (ERG), Business Resource Groups (BRGs), or other employee affinity groups, to certain protected groups." A more complete statement would clarify that this means that membership in such groups should be open to all, but not that there is any restriction on establishing a voluntary group around a particular affinity.

Casting a Wide Recruitment Net

If employers continue to focus on the same small set of places to advertise job openings and recruit candidates or employ word-of-mouth methods, it will not be surprising if their applicant pool misses qualified talent. Prospective employees with relevant skills may not learn about the opportunities if they are not a part of these networks. This can result in a skewed applicant pool that leaves out talented candidates based on protected traits such as sex, race, national origin, religion, age, disability, veteran's status or other irrelevant factors like wealth and class. It also means that the employer may not receive applications from the full complement of qualified talent, which hinders that employer's ability to hire the best candidate for the job.

One way that employers can lawfully address this problem is to broaden their talent acquisition strategy and expand the range of sourcing channels in which they advertise their job listings and increase outreach to areas where they may not have previously recruited. These may include historically Black colleges and universities, women's colleges, smaller and local colleges and universities, community colleges, and vocational and trade schools, as appropriate for the skills needed for the job.

Expanded recruitment initiatives also may include reviewing the qualifications and selection criteria for a job or promotion and adjusting them if the employer concludes that a particular requirement creates a barrier to some qualified candidates while not actually being necessary to successful job performance. For example, an employer may decide that a four-year college degree is not necessary to perform a job, thus opening up that opportunity to people with vocational or on-the-job training or two-year college degrees.¹⁴

Collecting Workforce Data for Barrier Analysis

Another important best practice for employers is to examine their current workforce and applicant pool to ensure compliance with applicable civil rights laws. This means collecting and, more importantly, understanding a variety of demographic information about their employees and applicants.

Such data collection is crucial for employers to identify and correct any barriers to equal opportunity before those barriers result in a lawsuit.¹⁵ Collecting and examining data in order to understand where there may be barriers to equal employment opportunity based on race, sex, or other characteristics protected by Title VII raises no legal concern. This includes evaluating hiring, promotion, and compensation systems to fairly

¹⁴ See 42 U.S.C. §2000e-2. See also Equal Employment Opportunity Commission, [Facts About Race/Color Discrimination](#).

¹⁵ For the utility of demographic data, see EEOC's Race Discrimination Guidance. That Guidance explains that "while a racially diverse workforce cannot immunize an employer from liability for specific acts of discrimination, the more racially diverse the relevant part of the employer's workforce is, the less credible would be the claim of discrimination. Statistical evidence also is important in determining whether the employer has a systemic pattern or practice of discriminating...." (quoting *Furnco Constr. Corp. v. Waters*, 438 U.S. 567, 579-80 (1978)).

treat all workers. Of course, the demographic data should be collected on a voluntary basis and kept separate from job application materials; individual level demographic information should not be shared with hiring officials or those involved with making employment selection decisions.¹⁶

Moving Forward to Strengthen Equal Opportunity

We are in a critical moment for our nation's journey toward equality for all. Keeping the doors of opportunity open to everyone, regardless of background, is fundamental to making the American Dream a reality in our workplaces. The practices we have shared here support all employees in reaching their potential. They help employers build healthy and respectful workplace cultures, break down stereotypes and favoritism, expand opportunity, and more strongly anchor employment decisions in merit and success. They also ensure that employers carry out the equal opportunity mandate of federal law.

Our federal civil rights offices and officials should not be intimidating or discouraging employers who are working to advance these goals. Instead, these offices and officials should endorse the lawful proactive steps to identify and address discrimination that we have discussed in this statement.

Signatories

/s/

Charlotte A. Burrows (Commissioner, 2015-2025; Chair, 2021-2025)

Chai R. Feldblum (Commissioner, 2010-2019)

Karla Gilbride (General Counsel, 2023-2025)

Christine Griffin (Commissioner, 2006-2009; Vice Chair, 2009)

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Peggy R. Mastroianni (Legal Counsel, 2011-2017)

Jocelyn Samuels (Commissioner, 2020-2025; Vice Chair 2021-2025)

Ellen Vargyas (Legal Counsel, 1994-2000)

Jenny R. Yang (Commissioner, 2013-2018; Vice Chair, 2014; Chair 2014-2017)

¹⁶ See [Lynn Clements, David Cohen and Victoria Lipnic, Workforce Data Considerations After DEI Order](#), Law 360 (February 27, 2025) (detailing considerations for continuing to collect workforce data.)

EXHIBIT R-15

Open Letter to the Federal Contractor Community from Former U.S. Department of Labor Officials

April 15, 2025

For over six decades, America has upheld a fundamental promise: when businesses work for our federal government, they commit to a higher standard – they must actively combat discrimination and create opportunities for all workers. In 1965, after the passage of the Civil Rights Act of 1964, President Lyndon B. Johnson issued Executive Order (EO) 11246 - Equal Employment Opportunity, prohibiting discrimination by federal contractors on the basis of race, color, religion, and national origin – later expanded to include sex, sexual orientation and gender identity.¹ In the 60 years since, through Republican and Democratic Administrations, this Executive Order has also required those who do business with the federal government to regularly review their employment practices for potential discrimination, and make good faith efforts to remedy any problems they identified. These federal contractors employ over 20 percent of the American workforce.

Compliance with EO 11246 did not involve race, gender, or other preferences or quotas. Rather, the implementing regulations promoted merit in hiring, compensation, and promotion practices, as well as compliance with bedrock civil rights law by ensuring qualified individuals were not excluded based on their background. These programs have expanded opportunities and fostered work environments where employees can reach their potential and drive innovation and organizational performance.

On the second day of the Administration, the Trump Administration issued EO 14173, which revoked EO 11246, gutting its protections.² Equally troubling, the Administration is using threats and intimidation to deter contractors from engaging in lawful actions to promote diversity, equity, inclusion, and accessibility (DEIA) initiatives.³

¹ President Johnson sought to ensure that the promise of non-discrimination in the Civil Rights Act of 1964 would lead to a meaningful expansion of economic opportunity, as he explained delivering a commencement address at Howard University in 1965. Heather Timmons, *Why LBJ signed executive order 11246 that Trump rescinded*, Reuters (Jan. 23, 2025), available at <https://www.reuters.com/world/us/why-president-johnson-signed-executive-order-1965-that-trump-rescinded-2025-01-23/>. For more about this history, see The Institute for Workplace Equality, *Executive Order 11246: 50 Years of Equality at Work*, <https://www.youtube.com/watch?v=8JcPpBZYIxM>.

² EO 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*. 90 Fed. Reg. 8633 (Jan. 21, 2025). EO 11246 was part of a long line of executive actions stretching back to 1941, supported by both Democratic and Republican administrations, to ensure taxpayer dollars were not used to discriminate based on race or other protected characteristics. Congress also passed laws addressing discrimination by federal contractors based on disability and veterans' status and those statutory frameworks remain in force.

³ Jory Heckman, *Federal contractor watchdog office seeks to 'deter DEI' at firms working with agencies*, Federal News Network, (March 25, 2025), available at <https://federalnewsnetwork.com/contracting/2025/03/federal-contractor-watchdog-office-seeks-to-deter-dei-at-firms-working-with-agencies/>.

Open Letter to the Federal Contractor Community from Former U.S. Department of Labor Officials

As former officials of the U.S. Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP), the federal agency responsible for enforcing EO 11246, and former Solicitors of Labor who supported that enforcement work, we write because decades of progress to create good jobs and fair merit-based workplaces are now at risk. We seek to help federal contractors and other employers navigate this complex environment, providing clarity about their options and obligations under the law.⁴

In implementing EO 14173, the new Director of OFCCP, Catherine Eschbach, issued troubling statements indicating a fundamental misunderstanding of the agency's work, describing OFCCP's past activities as significantly "out of step if not . . . contradictory to the nation's laws." She then announced plans to take steps she has no authority to take. She stated that the federal government is considering investigations and enforcement actions against federal contractors designed to "deter DEI programs or principles." She also proposes to review the affirmative action program documents contractors prepared and submitted when EO 11246 was in force, to identify potential investigation targets.⁵

Federal, state, and local civil rights laws, including Title VII of the Civil Rights Act of 1964, continue to protect America's workers, but President Trump's decision to abandon EO 11246's proactive enforcement program leaves employees who work for federal contractors more vulnerable to discrimination. The Administration's subsequent actions, including these statements by Director Eschbach, have also fueled widespread concern and uncertainty, leaving federal contractors – and other employers across the nation – unsure about their obligations under our civil rights laws. Many employers find themselves caught between long standing commitments to equal opportunity for all their employees and complex risks from multiple directions.

We write to explain why, despite the chaos and confusion, contractors should carefully weigh the risks of backing away from employment practices to promote equal opportunity for all. Conducting self-assessments, including data analysis to detect and prevent discrimination, has helped employers thrive by leveraging the full talent across America. This work also protects employers from liability by ensuring compliance with federal, state, and local anti-discrimination laws. OFCCP also carries out a Congressional mandate for DOL to provide equal opportunity for veterans and people with disabilities – and this mandate remains in effect.⁶ Despite this clear Congressional

⁴ This document contains general legal information and the views of the authors and is provided for educational purposes only. It is not legal advice. Readers should seek advice from qualified counsel for their specific situations.

⁵ Heckman, *supra* note 3, see also OFCCP News Release, *US Department of Labor Appoints Catherine Eschbach as Director of the Office of Federal Contract Compliance Programs* (March 24, 2025), available at <https://www.dol.gov/newsroom/releases/ofccp/ofccp20250324>.

⁶ OFCCP is charged with enforcing Section 503 of the Rehabilitation Act of 1973, which requires contractors to promote and provide equal opportunity for qualified individuals with disabilities, and the Vietnam Era Veterans' Readjustment Act of 1974, which applies requirements to qualified protected veterans who work for federal contractors and subcontractors.

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requirement, DOL has halted any work by DOL employees to protect workers with disabilities and veterans to fulfill DOL's enforcement responsibilities.⁷

Continuing effective discrimination prevention programs is also fully lawful. As explained in more detail below, these Administration actions are contrary to well-established law. First, the President may not override Congressional civil rights mandates by executive order. Second, the Administration's coercive attempts to prevent contractors from engaging in good faith efforts to ensure equal opportunity improperly threaten due process and free speech protections. Third, there is no basis to retroactively impose liability now for contractors' past good faith efforts to comply with OFCCP's regulations. Indeed, President Trump cannot have it both ways, revoking EO 11246, but somehow still allowing the agency to investigate contractors and take enforcement action against their diversity, equity, inclusion, and accessibility programs.

Because the Administration's actions are legally unsound and harmful to workers, employers, and America's economy, we urge federal contractors to carefully evaluate how they can best achieve the equal opportunity commitments they have made through their diversity, equity, inclusion, and accessibility programs. These programs not only serve important business and risk management objectives, but also uphold fundamental civil rights protections and promote fair treatment and opportunity for all workers. At the end of this letter, we provide some specific recommendations concerning how employers can take legal and effective actions that promote these objectives.

President Trump Unlawfully Targets Employers Over Their Diversity, Equity, Inclusion, and Accessibility Policies

In his Executive Order, President Trump went beyond simply removing requirements for federal contractors and sought to "deter DEI programs or principles," using the vague and undefined terms "illegal DEI and DEIA policies." EO 14173 also stated an intention to "encourage the private sector to end illegal discrimination and preferences, including DEI" through enforcement actions, and to require federal contractors and grantees to certify that they had no "DEI" programs that would violate anti-discrimination law, without defining what was meant by "DEI."

On March 24, 2025, DOL's news release announcing the appointment of Catherine Eschbach as the new OFCCP Director stated, "President Trump made clear in his executive order on eliminating DEI that EO 11246 had facilitated federal contractors adopting DEI practices out of step with the requirements of our Nation's civil rights laws and that, with the rescission of EO 11246, the President mandates federal contractors wind those practices down within 90 days."⁸

⁷ Pursuant to Secretary's Order 03-2025 investigations have been "held in abeyance pending further guidance." Available at <https://www.dol.gov/sites/dolgov/files/OPA/newsreleases/2025/01/Secretarys-Order-03-2025.pdf>.

⁸ OFCCP News Release, *supra* note 5.

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On that same day, to implement EO 14173, as reported in the media,⁹ Director Eschbach went even further in attempting to force private employers to stop voluntary equal opportunity efforts. Director Eschbach sent an email to all staff proposing to turn OFCCP's entire mission on its head. She asserted that OFCCP will, among other things, identify potential "civil compliance investigations" to "deter DEI" – not limiting this to "illegal DEI" – and examine affirmative action program documents that were submitted to the agency in the past, looking for "unlawful discrimination" that could be the subject of investigations and enforcement.¹⁰ She also threatened to use "all enforcement options" against contractors that did not "wind down" their own internal compliance and equal opportunity work – failing to recognize that employers may voluntarily continue these lawful efforts and that EO 14173 did not mandate the "winding down" of contractors' programs.¹¹ President Trump and Director Eschbach may not threaten or pursue federal enforcement against private employers for engaging in lawful diversity, equity, inclusion, and accessibility programs.

President Trump and Director Eschbach Have No Authority to Forbid Lawful Equal Opportunity Programs by Federal Contractors

The Administration's conduct violates constitutional and statutory law for three significant reasons. First, Congress has already established standards for voluntary equal opportunity programs through statutory law, as interpreted by the Supreme Court, and no Executive Order can lawfully contradict them. Second, the government may not pursue enforcement actions against employers that complied in good faith with the laws and regulations that existed prior to January 20, 2025, by sanctioning them based on their previously submitted affirmative action programs. Third, the threats of both prospective and retrospective enforcement – including requiring certifications – raise substantial constitutional and other concerns, from violations of due process and the First Amendment, to the utter absence of any authority for OFCCP to take these actions after the revocation of EO 11246.

⁹ Heckman, *supra* note 3.

¹⁰ Her email stated she intended to (1) "advise the Secretary of measures to deter DEI programs or principles by identifying potential civil compliance investigations;" (2) examine "federal contractors' previously submitted affirmative action plans to determine whether they indicate the presence of longstanding unlawful discrimination and whether it is appropriate for OFCCP to undertake any investigation and enforcement actions or refer the matter," and (3) "verify all federal contractors have wound down their use of affirmative action plans and implement all enforcement options to ensure President Trump's executive order has been complied with."

¹¹ EO 14173 states that "[f]or 90 days from the date of this order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025." 90 Fed. Reg. 8633, § 3(iv)(b)(i) (Jan. 21 2025). Nowhere in the executive order does it reference a mandate to "wind down" programs or authorize OFCCP to enforce the EO.

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1. President Trump may not change legal standards established by Congress, as interpreted by the Supreme Court, through an Executive Order

President Trump cannot override any substantive federal law concerning employment discrimination via Executive Order. Title VII continues to prohibit discrimination in employment because of race, sex, and other protected characteristics. Decades of judicial precedent affirm employer efforts to lawfully promote equal opportunity in the workplace through voluntary practices. The Administration's efforts to suggest that diversity, equity, inclusion, and accessibility practices are inherently discriminatory do not have the force of law – and there is ample existing law to the contrary.

It is well-established law that employers may express their interest in providing equal opportunity through having a general diversity policy and working to address barriers to equality.¹² The Supreme Court has recognized that employers have an “affirmative obligation to prevent violations” and that Title VII provides a catalyst for employers to self-evaluate their employment practices to eliminate discrimination.¹³ In fact, where employers have a lack of diversity in their workforce, as compared to the qualified labor pool in their geographic area, proactive recruitment efforts can represent a good-faith effort to provide equal opportunity. Well-crafted diversity, equity, inclusion, and accessibility policies and practices, including utilizing tools to help identify and address barriers to equal opportunity, promote compliance and can help reduce the risk of a discrimination lawsuit.¹⁴ Indeed, as one federal appellate judge considering a challenge to EO 14173 recently stated, the Administration's Executive Orders on DEIA “do not purport to establish the illegality of all efforts to advance diversity, equity or inclusion,

¹²*Peterson v. Hewlett-Packard Co.*, 358 F. 3d 599 (9th Cir. 2004) (goal of diversity policy to reduce sexual orientation discrimination is consistent with goals of civil rights laws); *Bernstein v. St. Paul Companies, Inc.*, 134 F. Supp. 2d 730, 739 (D. Md. 2001) (“A company's (or its CEO's) commitment to ‘diversity,’ if expressed in terms of creating opportunities for employees of different races and both genders, or fostering workplace tolerance, is not proof of discriminatory motive with respect to any specific hiring decision.”); *Lutes v. Goldin*, 62 F. Supp. 2d 118, 131 (D.D.C.1999) (concern for ensuring equal opportunity and removing barriers does not support a claim of discrimination when there is no evidence of any preference for one group over the other).

¹³ See, e.g., *Faragher v. City of Boca Raton*, 524 U.S. 775, 806 (1998) (recognizing employers’ “affirmative obligation to prevent violations” and citing favorably to EEOC guidance advising employers to “take all steps necessary to prevent” harassment); *Albemarle Paper Co. v. Moody*, 422 U. S. 405, 417-418 (1975) (observing that backpay is the catalyst that “causes employers and unions to self-examine and to self-evaluate their employment practices and to endeavor to eliminate, so far as possible, the last vestiges of an unfortunate and ignominious page in this country's history”).

¹⁴ Recently, the state Attorneys General of Massachusetts, Illinois, Arizona, California, Connecticut, Delaware, Hawaii, Maine, Maryland, Minnesota, Nevada, New Jersey, New York, Oregon, Rhode Island, and Vermont issued Multi-state Guidance on the importance of continuing lawful diversity, equity, and inclusion programs to prevent discrimination. Multistate Guidance Concerning Diversity, Equity, Inclusion, and Accessibility Employment Initiatives from the Commonwealth of Massachusetts and State of Illinois Offices of Attorney General and others (Feb. 13, 2025), available at <https://www.mass.gov/doc/multi-state-guidance-concerning-diversity-equity-inclusion-and-accessibility-employment-initiatives/download>.

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and they should not be so understood.”¹⁵ Any enforcement threat in the Administration’s new Executive Order may apply only to conduct that independently violates existing federal anti-discrimination law. The Administration cannot alter any existing obligations under anti-discrimination laws, or the decades of case law interpreting them.¹⁶

2. The Administration may not retroactively impose liability for complying with prior federal requirements

The Administration may not punish federal contractors for their past actions to comply in good faith with federal law and regulations as they existed at the time. The OFCCP Director proposes to embark on a fishing expedition reviewing the data and documents OFCCP has collected over the years to look for so-called “discriminatory DEI,” and then threatens to have OFCCP undertake investigations or refer these matters to other enforcement agencies. This is clear overreach and a potential constitutional due process violation.

Fundamental principles of due process require that contractors be given fair notice that their conduct may violate the law.¹⁷ Here, not only was there no notice, the government itself had previously *required* contractors to engage in the very practices to proactively assess potential barriers to equal opportunity that it now seeks to deter. The government may not find contractors in violation of the law for acting in clear reliance on the legal standards as the government had defined them at the time.¹⁸ Longstanding OFCCP regulations already forbade discrimination, did not require balancing the workforce, and did not permit racial preferences or quotas.¹⁹ Nor is there any basis to find contractors’ prior regulatory compliance efforts are now discriminatory.

3. The threats of enforcement and certification requirements raise serious constitutional and other legal issues, including the absence of any underlying agency authority

Trump’s EO 14173 also improperly threatens investigations and enforcement actions against employers for engaging in “illegal DEI” – even outside of contractors’ prior affirmative action program documents. Director Eschbach has gone even further, announcing an unqualified effort to “deter DEI.”²⁰ Seeking to force private entities to abandon lawful efforts to ensure compliance with Title VII is a misuse of enforcement power that exceeds the President’s legitimate enforcement authority, and raises significant constitutional concerns.

¹⁵ *NADOHE v. Trump*, No. 25-1189, (4th Cir., Mar. 14, 2025), Judge Harris, concurring.

¹⁶ See *Chicago Women in Trades v. Trump*, No. 25 C 2005 (N.D. Ill., Mar. 27, 2025).

¹⁷ *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.”)

¹⁸ See *United States v. Pennsylvania Industrial Chemical Corp.*, 411 US 655 (1973).

¹⁹ See 41 CFR 60-2.16.

²⁰ *Supra* note 10.

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The proposed investigations and enforcement actions are based on vague and undefined standards, raising Fifth Amendment due process concerns.²¹ Due process requires the government to provide fair notice and clear enforcement standards so that “regulated parties. . . know what is required of them so they may act accordingly [and] . . . so that those enforcing the law do not act in an arbitrary or discriminatory way.”²² Contractors are currently confused about what is required of them and have no way to know whether a particular policy or practice will be deemed “illegal DEI” or otherwise targeted and lead to a government investigation.

Further, under the Fourth Amendment, courts have held that OFCCP may only pursue a targeted investigation into a contractor if the government has “specific evidence of an existing violation.”²³ Investigating employers for engaging in lawful efforts to promote equal opportunity through diversity, equity, and inclusion initiatives does not constitute specific evidence of an existing violation.

The enforcement threats also have the potential to chill speech in violation of the First Amendment, by improperly discouraging employers from promoting values of diversity, equity, inclusion, and accessibility.²⁴ Although the federal government has chosen to dismantle diversity, equity, inclusion, and accessibility programs in its own workplaces at its own peril, the government cannot prohibit private employers from engaging in fully lawful strategies to advance equal opportunity for all.

²¹ See *NADOHE v. Trump*, Case No. 1:25-cv-00333-ABA (D.Md., Feb. 21, 2025) (issuing a preliminary injunction against the enforcement provisions of EO 14173 based on potential to violate Fifth Amendment Due Process Clause). While the Fourth Circuit has stayed enforcement of this facial challenge pending appeal, two members of the panel each wrote separately noting the potential for infringement of constitutional rights, including Due Process, depending on how the Administration sought to apply EO 14173 in practice. *NADOHE v. Trump*, 4th Cir., *supra* note 15.

²² *F.C.C. v. Fox Television*, 567 U.S. at 253.

²³ See, e.g., *Bank of Am. v. Solis*, No. CV 09-2009 (EGS), 2014 WL 4661287, at *8 (D.D.C. July 2, 2014) (recognizing that OFCCP must meet a probable cause standard for an onsite investigation and either show “specific evidence of an existing violation” or a neutral scheduling plan (citing *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 320 (1978)); *Beverly Enters., Inc. v. Herman*, 130 F. Supp. 2d 1, 13 (D.D.C. 2000) (stating that probable cause standard of “specific evidence of an existing violation” has been interpreted to require that the proposed search be: (1) authorized by statute; (2) properly limited in scope and (3) initiated in a proper manner).

²⁴ *NADOHE v. Trump*, D.Md., *supra* note 21; *Chicago Women in Trades v. Trump*, *supra* note 16 (issuing a temporary restraining order against the enforcement and certification provisions of EO 14173 based on potential chilling effect on speech). In the Fourth Circuit opinion on the government’s motion for a stay in the *NADOHE* case, two judges noted in their concurrences their concerns about potential free speech implications of EO 14173. As Judge Diaz stated, “Under the most basic tenets of the First Amendment, there should be room for open discussion and principled debate about DEI programs, and whether its corresponding values should guide admissions, hiring, scholarship, funding, or workplace and educational practices.” *NADOHE*, 4th Cir., *supra* note 15, Judge Diaz, concurring. And Judge Harris said, “Agency enforcement actions that go beyond the Orders’ narrow scope may well raise serious First Amendment and Due Process concerns, for the reasons cogently explained by the district court.” *NADOHE*, 4th Cir., *supra* note 15, Judge Harris, concurring.

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Further, after the revocation of EO 11246, OFCCP has no authority to pursue investigations or enforcement actions against contractors for “discriminatory DEI” based on race, sex, or any of the other categories that EO 11246 covered. President Trump revoked EO 11246. The DOL Secretary’s Order 03-2025 states: “DOL no longer has any authority under rescinded EO 11246” and directed all employees “to cease and desist all investigative and enforcement activity under the rescinded EO 11246 and the regulations promulgated under it,”²⁵ which leaves OFCCP unable to enforce anti-discrimination standards, other than those related to veterans’ status or disability. Without the underlying authorization, this enforcement would be entirely *ultra vires*.

In addition, EO 14173 states that, “[f]or 90 days from the date of this order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025.”²⁶ This does not mean it is or will become unlawful for contractors to continue their voluntary efforts to detect and prevent discrimination, simply because such efforts previously were required by OFCCP’s regulations. Moreover, the government cannot prohibit private entities from implementing lawful policies and practices of their choosing. Accordingly, there is no authority for OFCCP to “verify all contractors have wound down” their programs and threaten enforcement.

Finally, the Administration may not require contractors to certify compliance without setting forth clear standards for what constitutes “illegal DEI” and undertaking proper federal administrative procedures. At least two courts have already identified constitutional and other problems with the certification requirement.²⁷ Indeed, the Supreme Court has held that requiring entities receiving federal funds to adopt the government’s viewpoint as their own, by certifying they oppose a particular policy, is an unconstitutional condition that violates First Amendment rights.²⁸ In addition, no government agency or contracting office may issue a certification form to contractors as a condition of continuing their federal contracts, without ensuring compliance with well-established procedures under the Paperwork Reduction Act.²⁹

²⁵Secretary’s Order 03-2025, *supra* note 7.

²⁶ 90 Fed. Reg. 8633, § 3(iv)(b)(i) (Jan. 21 2025).

²⁷ *NADOHE v. Trump*, *supra* note 21; *Chicago Women in Trades v. Trump*, *supra* note 16.

²⁸ *AID v. Alliance for Open Society Intern.*, 570 U.S. 205 (2013). The *NADOHE* District Court applied this precedent in enjoining the certification provision, noting the Supreme Court’s concern that it would be improper for the government to use the threat of denying federal funding to compel speech that was unrelated to the purpose of the funding. Here, requiring a federal contractor who provides goods or services to adopt the government’s view of diversity, equity, inclusion, and accessibility as harmful and discriminatory would clearly impact protected conduct that likely is not related to the underlying purpose of the contract.

²⁹ Contractors are not required to respond to government forms and other requests for data and information that have been sent in the same form to 10 or more people, and that have not been approved by the Office of Management and Budget according to the procedures set forth at 5 C.F.R. Part 1320 *et seq.*

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Federal Contractors Should Continue to Use Lawful and Effective Tools to Ensure Equal Opportunity

As explained above, the effort to forbid federal contractors from taking proactive measures that had previously been used to comply with EO 11246's implementing regulations is fundamentally at odds with Title VII and the Constitution. Nor should federal contractors voluntarily agree to abandon these powerful tools that help employers attract and retain qualified talent and foster innovation and business performance – as well as provide sound risk management.³⁰

Leading employers, including contractors, regularly conduct voluntary self-evaluations to prevent discrimination, such as analyzing workforce data, setting aspirational benchmarks, conducting barrier analyses, and evaluating the impact of their employment practices. There are critical reasons to continue these practices to root out discrimination and promote equal opportunity. Rather than discouraging effective efforts to prevent discrimination, our federal civil rights officials should actively encourage and amplify such practices to advance our nation's shared commitment to equal opportunity and human dignity in the workplace. Below we share some reasons these programs remain essential, and some design recommendations to promote effective and lawful practices. Indeed, high-performing federal contractors are continuing to prioritize this work, recognizing that inclusive practices drive measurable outcomes – including operational excellence and competitive advantage.

1. Proactive Barrier Analysis Remains Fully Lawful and Essential to Prevent Discrimination

Barrier analysis is a self-assessment approach used to identify and remove obstacles that prevent equal employment opportunity. It investigates unusual patterns in an employer's employment practices to evaluate whether particular employment practices provide fair opportunities to everyone, and do not favor or unfairly disadvantage individuals because of a protected basis. It enables employers to spot potential liability risks and also ensures that decisions about hiring, pay, and promotion rely on legitimate job-related qualifications.

Examples of barrier analysis include examining a hiring process to understand high rejection rates for qualified candidates from certain backgrounds, such as ensuring that interview procedures accurately assess job related criteria and that job descriptions identify and remove unnecessary requirements. It can also include analyzing high turnover rates for particular workers to determine potential driving factors. Pay equity analysis is another form of proactive analysis to make sure that pay practices are fair and non-discriminatory. Where the analysis shows potential problems, it is critical to understand the root cause of the barrier and how to remove it. This sometimes involves

³⁰ Letter of State Attorneys General, *supra* note 14; National Institute for Workers' Rights (NIWR), *NIWR and NELA Warn Corporations Of Increased Liability Risk In Rolling Back Diversity, Equity And Inclusion Programs* (April 8, 2025), available at <https://niwr.org/2025/04/08/release-risk-eliminating-dei-programs>.

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more detailed data analysis, as well as interviews and listening sessions with employees and managers and review of policy documents or survey data.³¹

Employers that decline to track applicant flow data and analyze their hiring and recruitment practices for potential barriers, or fail to assess pay equity or other practices, face an increased risk of liability.³² They may miss critical insights into policies or practices that are unlawfully excluding or negatively affecting qualified workers and thus, they cannot take steps to address them.

2. Collecting and Analyzing Workforce Data

OFCCP's regulations required federal contractors to collect and analyze applicant flow data as well as workforce demographic data. This allows contractors to ensure they are fully utilizing the available workers in their geographic area who have the skills and abilities to do the job.

Notwithstanding the revocation of EO 11246, to comply with federal law, covered employers, including federal contractors, should continue to collect and analyze applicant flow and workforce data. Title VII requires that employers "make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed."³³ Collecting applicant flow and workforce data is a critical part of determining whether an employer has unlawful employment practices. In 2008, during President George W. Bush's Administration, the legal counsel of the U.S. Equal Employment Opportunity Commission (EEOC) issued an informal discussion letter expressly stating that "the EEOC's regulations require companies to maintain, and have available for inspection, data by identifiable race, sex, and ethnic group for all job applicants."³⁴ The letter explained that this data was "necessary for employers and the EEOC to determine if discrimination has occurred."³⁵ EEOC regulations instruct employers to provide that the records are kept separate from the employee's other

³¹ For an example of this approach, see RAND, Miriam Matthews, et al, *Unequal Opportunity: Barriers to Employment in the Department of Defense Civilian Workforce*, available at https://www.rand.org/pubs/research_briefs/RB10017.html.

³² An employment practice violates Title VII where it unjustifiably screens out employees on the basis of race, gender or other protected characteristics. 42 U.S.C. §2000e-2(k); *Griggs v. Duke Power Co.*, 401 US 424, 431 (1973) ("What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification.")

³³ Title VII, 42 U.S.C. § 2000e-8(c).

³⁴ EEOC Informal Discussion Letter dated Nov. 18, 2008, available at <https://www.eeoc.gov/foia/eeoc-informal-discussion-letter-200> (emphasis added); see also Title VII, §. 2000e-8(c), citing 29 C.F.R. § 1607.4A.

³⁵ *Id.*; see also EEOC Pre-Employment Inquiries and Race, available at <https://www.eeoc.gov/pre-employment-inquiries-and-race> (explaining that an employer may request information about an applicant's race where it has a legitimate business need, such as "to track applicant flow").

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personnel information, and that the employer does not make the information available to those responsible for employment decisions.³⁶

For decades, EEOC has collected workforce data by job category from employers with more than 100 employees for enforcement, self-assessment, and research.³⁷ In addition, several state laws require employers to track demographic data for purposes of pay data reporting.³⁸ Analyzing current workforce data is a critical strategy to assess whether promotion, assignment, pay, and other policies are compliant with federal, state, and local civil rights requirements.³⁹

3. Tracking Progress Through Well-Crafted Benchmarks

Some employers use benchmarking or aspirational goal setting to monitor for potential discrimination in recruitment, hiring, promotion, and other practices. OFCCP regulations supported this practice. Even in the absence of federal mandates it remains a useful tool for employers. Well-crafted benchmarks or aspirational goals reflect the reasonable expectation that under a fair and open process, qualified individuals of all backgrounds will apply and be selected, and there will not be any significant patterns that favor one group over others. Where there are unexpected discrepancies, this provides an indicator to investigate further to determine if there may be artificial barriers that exclude qualified workers.

An appropriate benchmark helps employers to assess their full utilization of the qualified labor pool in their geographic area. Under existing law, these goals or benchmarks must not be mandatory or inflexible quotas that dictate the selection of a certain number of people from specific demographic groups.⁴⁰ Benchmarks should be based on an analysis of the qualified, available labor pool. Setting realistic goals, grounded in what it takes to be successful in the job and where the job is located, helps to make sure an employer's benchmarks advance its equal opportunity commitment.⁴¹ Employers should also establish safeguards to make sure hiring and promotion decisions focus on job-related skills and abilities so that decisions remain merit-based, and do not exclude qualified workers because of a protected characteristic. Training and guidance for managers should emphasize that their individual decisions about particular candidates

³⁶ 29 C.F.R. § 1602.13.

³⁷ 29 C.F.R. 1602.7.

³⁸ See, e.g., California Government Code § 12999; Illinois, Equal Pay Act amendments requiring employers to obtain equal pay registration certificates, 820 ILCS 112, Sec. 11; Mass. Gen. Laws ch. 141 (2024). See also New Jersey S. Res. 104, 2018 Leg., 218th Sess. (NJ. 2018), which applies to entities that contract with the state.

³⁹ See Lynn Clements, David Cohen and Victoria Lipnic, *Workforce Data Considerations After DEI Order*, Law 360 (February 27, 2025) (detailing considerations for continuing to collect workforce data.)

⁴⁰ *Ricci v. DeStefano*, 557 U.S. 557, 583 (2009); *Richmond v. JA Croson*, 488 U.S. 469, 499 (1989).

⁴¹ *Johnson v. Transportation Agency, Santa Clara Cty.*, 480 US 616, 632 (1986).

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should be confined to their qualifications and the requirements of the job, and that race, gender or other protected characteristics should not be considered in those decisions.⁴²

Setting benchmarks in this way, and pursuing aspirations to expand opportunity, are not quotas and are not discriminatory.⁴³ They can help employers evaluate their practices to ensure there are no unfair limitations in how they utilize talent.

OFCCP's History and Impact Show the Harm of These Unlawful Actions

As former DOL OFCCP and Office of the Solicitor officials, we categorically reject Director Eschbach's claims that the work of OFCCP and EO 11246 itself "facilitated" the adoption of so-called discriminatory "DEI." This deeply misunderstands the history and impact of the agency and its work.

EO 11246 and its regulatory framework not only forbade discrimination but also went further and required contractors to take steps to open job opportunities to all, expand recruitment and outreach, ensure equal pay, and remove barriers in hiring, promotion and other employment opportunities, so that qualified workers were not disadvantaged because of favoritism, stereotypes, and other forms of bias due to their backgrounds. OFCCP conducted compliance evaluations to assess whether federal contractors were meeting their obligations under its regulations. OFCCP's regulations specifically barred quotas, preferences, and set asides.⁴⁴

OFCCP and EO 11246 filled key gaps in federal civil rights protections, complementing the work of EEOC. As part of OFCCP's compliance evaluations of contractors, OFCCP reviewed hiring and pay data and information about EEO policies, and went onsite to talk with workers, to root out patterns of discrimination that may not otherwise come to light. Often workers do not have information about who was hired, what colleagues are paid, or how they are treated. Without this information, workers will not have the evidence of discrimination they need to support a charge of discrimination with the EEOC, which does not have authority to conduct routine compliance reviews of

⁴² See *supra* note 12; see also, e.g., *Mlynczak v. Bodman*, 442 F. 3d 1050, 1054 (7th Cir. 2006) ("while [the goals] stress active recruitment of women and minority candidates, they do not contain quotas, nor do they authorize management to give preference to less-qualified female or minority applicants for jobs or promotions. Instead, the Chicago DOE office is bound by the rules in the DOE Merit Promotion Policy, under which selecting officials may not make a hiring or promotion decision based on race, color, sex, national origin, age, or disability.").

⁴³ *Christensen v. Equitable Life Assur. Soc. of US*, 767 F. 2d 340, 344 (7th Cir. 1985) (fact that employer had adopted goals for recruiting Black employees into executive positions not evidence of discrimination where there was no evidence it affected the decisions about plaintiff); *Reed v. Agilent Technologies, Inc.*, 174 F. Supp. 2d 176, 186 (D. Del. 2001) (the mere existence of a policy promoting diversity awareness is not evidence of discrimination . . . evidence regarding the aspirational purpose of an employer's diversity policy, and its intent to ameliorate any underutilization of certain groups, is not sufficient); *Lutes*, 62 F. Supp. 2d at 132 (existence of affirmative action plan not evidence of discrimination against individual where plan not considered by decision-makers).

⁴⁴ 41 CFR 60-2.16.

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employers as OFCCP did. Finally, the regulatory requirement that federal contractors regularly review their practices and workforce data, and take steps to reduce bias and inequality, added another layer of protection for these workers.

As a result of this proactive enforcement program, OFCCP has improved the lives of American workers. From desegregating workplaces, to expanding opportunities for all in hiring and promotion, to ensuring equal pay, to uncovering workplace harassment, the agency has promoted equal employment opportunity for all employees: people of color and white individuals; women and men; LGBTQ individuals and those of all gender identities and sexual orientations; veterans; people with disabilities; and employees of all religious backgrounds. OFCCP has also helped federal contractors advance their equal opportunity commitments through technical assistance and engagement.

From 2014 to 2024, OFCCP recovered over \$260 million in lost wages for over a quarter of a million employees and job seekers impacted by discrimination. This includes providing workers with over \$107 million in back and front pay to rectify pay discrimination. In addition to financial remedies, OFCCP also helped workers of all backgrounds obtain jobs and raises. During this same period, OFCCP obtained over 22,000 job opportunities and salary adjustments for workers to remedy discrimination. Contrary to the Administration's suggestions of unequal enforcement, OFCCP had for decades pursued and obtained recoveries on behalf of all workers - including white men.

Despite OFCCP's long track record of success opening doors to opportunity, President Trump has now abandoned this critical mission. It has also been reported that OFCCP will soon lose possibly hundreds of highly talented and experienced staff who have dedicated their lives to helping workers around the country. The loss of this deep institutional knowledge about compliance assistance and equal opportunity would harm both employers and workers alike. While each past Administration has made changes to the OFCCP enforcement program to reflect Presidential policy priorities and often to expand protections, no prior President – Republican or Democrat – had ever before walked away from our nation's commitment to equal opportunity for all.

Instead, this Administration is weaponizing tools intended for civil rights enforcement against contractors that simply wish to voluntarily deploy practices that have helped them recruit, retain, and fully utilize America's talent. The Administration cannot lawfully coerce the private sector into adopting this Administration's view of diversity, equity, inclusion, and accessibility programs. Nor should it take away effective tools that foster innovation through diverse perspectives and create workplaces where all employees can fully contribute.

Open Letter to the Federal Contractor Community from Former U.S. Department of Labor Officials

America's enduring promise is that talent and effort – not background or origin – should determine one's path. We urge you to stand firm in your commitments to lawful diversity, equity, inclusion, and accessibility practices that promote civil rights compliance, true merit, and a strong economy.

Signed, /s/

Pamela Coukos, OFCCP Senior Advisor, 2011-2016

Donna Lenhoff, OFCCP Senior Civil Rights Advisor, 2011-2017

Seema Nanda, Solicitor of Labor, 2021-2025

Patrick O. Patterson, OFCCP Deputy Director, 2014-2017

Maya Raghu, OFCCP Deputy Director, Policy, 2021-2023

Dariely Rodriguez, OFCCP Chief of Staff, 2021-2022

Patricia A. Shiu, OFCCP Director, 2009-2016

M. Patricia Smith, Solicitor of Labor, 2010-2017

Shirley J. Wilcher, Deputy Assistant Secretary for OFCCP, 1994-2001

Jenny R. Yang, OFCCP Director, 2021-2023

EXHIBIT R-16



Office of the Attorney General
Washington, D. C. 20530

February 5, 2025

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL 

SUBJECT: ENDING ILLEGAL DEI AND DEIA DISCRIMINATION
AND PREFERENCES

The Department of Justice is committed to enforcing all federal civil rights laws and ensuring equal protection under the law. As the United States Supreme Court recently stated, “[e]liminating racial discrimination means eliminating all of it.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023). On January 21, 2025, President Trump issued Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, 90 Fed. Reg. 8633 (Jan. 21, 2025), making clear that policies relating to “diversity, equity, and inclusion” (“DEI”) and “diversity, equity, inclusion, and accessibility” (“DEIA”) “violate the text and spirit of our longstanding Federal civil-rights laws” and “undermine our national unity.” *Id.* at 8633.

To fulfill the Nation’s promise of equality for all Americans, the Department of Justice’s Civil Rights Division will investigate, eliminate, and penalize illegal DEI and DEIA preferences, mandates, policies, programs, and activities in the private sector and in educational institutions that receive federal funds.¹

I. Ending Illegal DEI And DEIA Discrimination and Preferences

By March 1, 2025, consistent with Executive Order 14173, the Civil Rights Division and the Office of Legal Policy shall jointly submit a report to the Associate Attorney General containing recommendations for enforcing federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including policies relating to DEI and DEIA. The report should address:

- Key sectors of concern within the Department’s jurisdiction;

¹ This memorandum is intended to encompass programs, initiatives, or policies that discriminate, exclude, or divide individuals based on race or sex. It does not prohibit educational, cultural, or historical observances—such as Black History Month, International Holocaust Remembrance Day, or similar events—that celebrate diversity, recognize historical contributions, and promote awareness without engaging in exclusion or discrimination.

Memorandum for all Department Employees

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Subject: Ending Illegal DEI And DEIA Discrimination and Preferences

- The most egregious and discriminatory DEI and DEIA practitioners in each sector of concern;
- A plan including specific steps or measures to deter the use of DEI and DEIA programs or principles that constitute illegal discrimination or preferences, including proposals for criminal investigations and for up to nine potential civil compliance investigations of entities that meet the criteria outlined in section 4(b)(iii) of Executive Order 14173;
- Additional potential litigation activities (including interventions in pending cases, statement of interest submissions, and amicus brief submissions), regulatory actions, and sub-regulatory guidance; and
- Other strategies to end illegal DEI and DEIA discrimination and preferences and to comply with all federal civil-rights laws.

II. Guidance to Institutions Receiving Federal Funds

Educational agencies, colleges, and universities that receive federal funds may not “treat some students worse than others in part because of race.” *Students for Fair Admissions*, 600 U.S. at 304 (Gorsuch, J., concurring). Consistent with the January 21, 2025, Executive Order, the Department of Justice will work with the Department of Education to issue directions, and the Civil Rights Division will pursue actions, regarding the measures and practices required to comply with *Students for Fair Admissions*.

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Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

SAN FRANCISCO AIDS FOUNDATION, et
al.;

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.

Defendants.

Case No. 4:25-cv-1824-JTS

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION AND
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: Thursday, May 22, 2025
Time: 2:00 pm PDT
Dept.: Oakland

Trial Date: None Set

1 Upon due consideration of Plaintiffs' Motion for Preliminary Injunction, and all briefing
2 papers filed in connection therewith, and with the benefit of oral argument, the Court hereby finds
3 there is good cause to **GRANT** the motion.

4 The Court may issue a preliminary injunction when a plaintiff establishes that "he is likely
5 to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary
6 relief, that the balance of equities tips in his favor, and that an injunction is in the public interest."
7 *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *see also Alliance for the*
8 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35 (9th Cir. 2011). The Court finds that Plaintiffs
9 have carried their burden to satisfy each of those factors and that immediate relief is appropriate.

10 Therefore, the Court hereby **ORDERS** that Plaintiffs' Motion for a Preliminary Injunction
11 is **GRANTED** and issues the following preliminary injunction with immediate effect:

12 1. Agency Defendants¹ are hereby **ENJOINED** from enforcing Executive Order No. 14168

13 §§ 3(e), 3(g), and 4(d) against Plaintiffs. Specifically, Defendants shall not:

- 14 a. Condition or withhold any federal funding or contract eligibility on Plaintiffs'
15 compliance with Executive Order No. 14168;
- 16 b. Investigate Plaintiffs with regard to compliance with Executive Order No. 14168;
- 17 c. Terminate or modify existing governmental contracts with or grants to Plaintiffs
18 for purported non-compliance with:
 - 19 i. Any provision of Executive Order No. 14168,
 - 20 ii. Any agency action taken to implement Executive Order No. 14168, or
 - 21 iii. Any term of a contract or grant imposed to implement Executive Order No.
22 14168;
- 23 d. Take any other action against Plaintiffs, whether or not listed above, intended to
24 implement, effectuate, or enforce, explicitly or under a different name:

25 ¹ Defendants DOJ; Attorney General Pamela Bondi; DOL; Acting Labor Secretary Vince Micone;
26 OFCCP; Acting OFCCP Director Michael Schloss; OMB; OMB Director Russell Vought; HHS;
27 HHS Secretary Robert K. Kennedy, Jr.; HUD; HUD Secretary Scott Turner; NARA; Deputy
28 Archivist William J. Bosanko; NEH; and NEH Chair Shelly C. Lowe are referred to collectively as
the "Agency Defendants."

- i. Any provision of Executive Order No. 14168,
- ii. Any agency action taken to implement Executive Order No. 14168, or
- iii. Any term of a contract or grant imposed to implement Executive Order No. 14168.

2. Defendants are hereby **ENJOINED** from enforcing Executive Order Nos. 14151 §§ 2(b)(i) and 2(b)(ii)(C) and 14173 §§ 3(b)(iv)(A)-(B), 3(c)(ii), 3(c)(iii), and 4(b) against Plaintiffs.

Specifically, Defendants shall not:

- a. Condition or withhold any federal funding or contract eligibility on Plaintiffs' compliance with Executive Order Nos. 14151 and 14173;
- b. Investigate Plaintiffs with regard to compliance with Executive Order Nos. 14151 and 14173;
- c. Terminate or modify existing governmental contracts with or grants to Plaintiffs for purported non-compliance with:
 - i. Any provision of Executive Order Nos. 14151 and 14173,
 - ii. Any agency action taken to implement Executive Order Nos. 14151 and 14173, or
 - iii. Any term of a contract or grant imposed to implement Executive Order Nos. 14151 and 14173;
- d. Take any other action against Plaintiffs, whether or not listed above, intended to implement, effectuate, or enforce, explicitly or under a different name:
 - i. Any provision of Executive Order Nos. 14151 and 14173,
 - ii. Any agency action taken to implement Executive Order Nos. 14151 and 14173, or
 - iii. Any term of a contract or grant imposed to implement Executive Order Nos. 14151 and 14173.

3. Agency Defendants are hereby **ORDERED**, within five (5) business days of entry of this order, to **REINSTATE** any terminated contract or grant awards of Plaintiffs'

(whether a Plaintiff is grantee or sub grantee) in accordance with the grant terms and conditions in place at the time the Complaint was filed. This includes the following specific grant awards listed in Appendix C to Plaintiffs' Reply in Support of Motion for Preliminary Injunction:

- a. Gay Lesbian Bisexual Transgender Historical Society – Federal Award ID Number PG-300781-24 (\$10,000);
- b. San Francisco Aids Foundation – Federal Award ID Number 1R0 1AI181732-01A1 (\$52,822);
- c. San Francisco Aids Foundation – Federal Award ID Numbers B09SM085337 & B08TI083929 (\$125,000);
- d. Los Angeles LGBT Center – Federal Award ID Number 1R01DA061345-01 (\$2,068,560); and
- e. Los Angeles LGBT Center – Federal Award ID Number 4R00DA055508-03 (\$12,536).

4. This injunction shall take effect immediately.

5. This injunction shall apply to all Agency Defendants as well as any subagencies of Agency Defendants and any officers, agents, servants, employees, or attorneys of Agency Defendants or any of their subagencies. This injunction shall further apply to any other persons who are in active concert or participation with Agency Defendants or Agency Defendants' officers, agents, servants, employees, and attorneys. Fed. R. Civ. P. 65(d)(2).

6. The Court's reasons for issuing this injunction are set forth in a forthcoming opinion, as well as in the transcript of the proceedings held before the Court on _____, 2025. Fed. R. Civ. P. 65(d)(1)(A).

7. This injunction shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this ____th of _____, 2025.

HON. JUDGE JON S. TIGAR
UNITED STATES DISTRICT JUDGE