

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

STATE OF NEW YORK; STATE OF )  
CALIFORNIA; STATE OF )  
ILLINOIS; STATE OF RHODE )  
ISLAND; STATE OF NEW JERSEY; )  
COMMONWEALTH OF )  
MASSACHUSETTS; STATE OF )  
ARIZONA; STATE OF COLORADO; )  
STATE OF CONNECTICUT; STATE )  
OF DELAWARE; THE DISTRICT )  
OF COLUMBIA; STATE OF )  
HAWAII; OFFICE OF THE )  
GOVERNOR *ex rel.* Andy Beshear, in )  
his official capacity as Governor of )  
the COMMONWEALTH OF )  
KENTUCKY; STATE OF MAINE; )  
STATE OF MARYLAND; STATE OF )  
MICHIGAN; STATE OF )  
MINNESOTA; STATE OF NEVADA; )  
STATE OF NEW MEXICO; STATE )  
OF NORTH CAROLINA; STATE OF )  
OREGON; STATE OF VERMONT; )  
STATE OF WASHINGTON; and )  
STATE OF WISCONSIN, )

Plaintiffs, )

v. )

DONALD TRUMP, in his official )  
capacity as President of the United )  
States; U.S. OFFICE OF )  
MANAGEMENT AND BUDGET; )  
RUSSELL VOUGHT, in his official )  
capacity as Director of the U.S. Office )  
of Management and Budget; U.S. )  
DEPARTMENT OF THE )  
TREASURY; SCOTT BESSENT, in )  
his official capacity as Secretary of )  
the Treasury; PATRICIA COLLINS, )  
in her official capacity as Treasurer )  
of the United States; U.S. )

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

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DEPARTMENT OF HEALTH AND )  
HUMAN SERVICES; ROBERT F. )  
KENNEDY, JR., in his official )  
capacity as Secretary of Health and )  
Human Services; U.S. )  
DEPARTMENT OF EDUCATION; )  
LINDA MCMAHON, in her official )  
capacity as Secretary of Education; )  
U.S. DEPARTMENT OF )  
TRANSPORTATION; SEAN DUFFY, )  
in his official capacity as Secretary of )  
Transportation; U.S. DEPARTMENT )  
OF LABOR; LORI CHAVEZ- )  
DEREMER, in her official capacity as )  
Secretary of Labor; U.S. )  
DEPARTMENT OF ENERGY; )  
CHRIS WRIGHT, in his official )  
capacity as Secretary of Energy; U.S. )  
ENVIRONMENTAL PROTECTION )  
AGENCY; LEE ZELDIN, in his )  
official capacity as Administrator of )  
the U.S. Environmental Protection )  
Agency; U.S. DEPARTMENT OF )  
THE INTERIOR; DOUG BURGUM, )  
in his official capacity as Secretary of )  
the Interior; U.S. DEPARTMENT OF )  
HOMELAND SECURITY; KRISTI )  
NOEM, in her capacity as Secretary )  
of Homeland Security; U.S. )  
DEPARTMENT OF JUSTICE; )  
PAMELA BONDI, in her official )  
capacity as Attorney General of the )  
U.S. Department of Justice; THE )  
NATIONAL SCIENCE )  
FOUNDATION; DR. SETHURAMAN )  
PANCHANATHAN, in his capacity )  
as Director of the National Science )  
Foundation; U.S. DEPARTMENT OF )  
AGRICULTURE; BROOKE )  
ROLLINS, in her official capacity as )  
Secretary of Agriculture; U.S. )  
DEPARTMENT OF HOUSING AND )  
URBAN DEVELOPMENT; SCOTT )  
TURNER, in his official capacity as )

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## MEMORANDUM AND ORDER

JOHN J. MCCONNELL, JR., United States District Court Chief Judge.

Before the Court is the Plaintiff States' Motion for Enforcement of Preliminary Injunction. ECF No. 168. The States allege that Defendant Federal Emergency Management Agency ("FEMA") is implementing a categorical freeze on obligated funds that violates the Court's preliminary injunction order. The Defendants oppose the motion, contending that FEMA is merely implementing a manual review process of which the Court's preliminary injunction does not restrain. ECF No. 172. For the reasons stated below, the Court GRANTS the States' Motion for Enforcement.

### I. BACKGROUND

On January 31, 2025, the Court entered a temporary restraining order ("TRO") that enjoined the Defendants from "paus[ing], freez[ing], imped[ing], block[ing], cancel[ling], or terminat[ing] Defendants' compliance with awards and obligations to provide federal financial assistance to the States," and instructed that the Defendants "shall not impede the States' access to such awards and obligations, except on the basis of the applicable authorizing statutes, regulations, and terms." ECF No. 50, at 11. The TRO also stated that if the Defendants "engage in the 'identif[ication] and review' of federal financial assistance programs" such an exercise "shall not affect a pause, freeze, impediment, block, cancellation, or termination of Defendants' compliance with such awards and obligations, except on the basis of the applicable authorizing statutes, regulations, and terms." *Id.* at 12.

Within the weeks after the Court issued the TRO, the States continued to experience freezes of numerous grants and awards that went unresolved even after conferring with the Defendants' counsel. Thus, the States moved to enforce the TRO, ECF No. 66, which the Court granted—ordering the Defendants to: (1) “immediately restore frozen funding” and “immediately end any funding pause” during the pendency of the TRO, and (2) “immediately take every step necessary to effectuate the TRO.”<sup>1</sup> ECF No. 96 at 4. Eventually, the States filed a Second Motion to Enforce, alleging that the States were facing obstacles to accessing millions of dollars of awarded and obligated FEMA funds and requesting the Court to order FEMA to show compliance with the Court's previous orders. ECF No. 160.

On March 6, the Court issued a preliminary injunction order that enjoined the Defendants—including FEMA—from “pausing, freezing, blocking, canceling, suspending, terminating, or otherwise impeding the disbursement of appropriated federal funds to the States under awarded grants, executed contracts, or other executed financial obligations based on the OMB Directive, . . . or any other materially similar order, memorandum, directive, policy, or practice under which the federal government imposes or applies a categorical pause or freeze of funding appropriated by Congress.” ECF No. 161 at 44.<sup>2</sup> Because the Court's issuance of the

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<sup>1</sup> The Court later issued an order reaffirming that the TRO does not restrain the Defendants from limiting access to federal funds “on the basis of the applicable authorizing statutes, regulations, and term.” ECF No. 107 at 3.

<sup>2</sup> The Defendants have since appealed the Court's preliminary injunction order. ECF No. 162. Though, the 1<sup>st</sup> Circuit denied the Defendants' motion for stay pending appeal of the Court's preliminary injunction. ECF No. 171.

preliminary injunction order rendered the TRO expired, the Court denied the States' Second Motion to Enforce the TRO as moot. *Id.* at 45. Still, the Court ordered FEMA to file a status report telling the Court of the status of their compliance with the preliminary injunction order by March 14, 2025. *Id.* FEMA timely filed the ordered status report, ECF No. 166, and the States swiftly responded, ECF No. 167—alleging that FEMA was not in compliance with the Court's preliminary injunction order. Now, the States move to enforce the Court's preliminary injunction order based on these allegations of FEMA's noncompliance.

## II. STANDARD OF REVIEW

“To prove civil contempt,<sup>3</sup> a movant must show with clear and convincing evidence that (1) the alleged contemnor had notice of a court order, (2) the order was clear and unambiguous, (3) the alleged contemnor had the ability to comply with the order, and (4) the alleged contemnor violated the order.” *Letourneau v. Aul*, No. CV 14-421JJM, 2024 WL 1364340, at \*2 (D.R.I. Apr. 1, 2024) (citing *Hawkins v. Dep't of Health & Hum. Servs.*, 665 F.3d 25, 31 (1st Cir. 2012)).

## III. DISCUSSION

The States assert that they have not received “substantial disbursement of funds on important grants since early February.” ECF No. 174 at 5. They highlight that these funding disruptions coincide with an email that Stacey Street, Director of the Office of Grants Administration at FEMA, sent to all staff on February 10, 2025,

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<sup>3</sup> While the States do not seek contempt at this time, the Court uses the same factors to determine whether it should order enforcement of its preliminary injunction.

which instructed the placement of “hold toggles” and “financial holds” on “all [FEMA] awards.” ECF No. 166-4. Director Street clarified in a follow up email that these holds were not the holds directed in the OMB M-25-13 (“OMB Directive”) that the Court enjoined in the TRO. ECF No. 166-5 at 2. Rather, Director Street indicated that “we are still processing out awards but will be adding a level of internal controls.”

*Id.*

But the States have presented undisputed evidence that this “processing” of awards has yet to come. *See e.g.*, ECF No. 168-1 at ¶¶ 11-12 (Hawaii’s February 21 second obligation request for almost \$6 million and February 25 drawdown reimbursement request for almost \$500,000 still pending with FEMA); ECF No. 168-2 ¶ 20 (Oregon’s Department of Emergency Management has not received federal FEMA funds since February 20, thus waiting on approximately \$129.4 million in federal funds); ECF No. 168-3 ¶ 6 (None of the Colorado Department of Public Safety’s Division of Homeland Security and Emergency Management’s requests—between February 18 to March 25—for over \$33 million in reimbursement costs from FEMA under fourteen grant program have been approved); ECF No. 168-4 ¶ 7 (Rhode Island’s FEMA grants, which support nearly a dozen grant programs, have been unavailable for more than thirty days); ECF No. 160-1 ¶¶ 4-20 (listing several FEMA grants to state agencies in Arizona, California, Colorado, Hawaii, Illinois, Maine, Maryland, Michigan, New Jersey, New York, Vermont, Washington, and Wisconsin that are frozen and unavailable for drawdown). Overall, the States contend that “as of March 12, 2025, at least 215 FEMA grants to at least nineteen



plaintiff states remain frozen or otherwise inaccessible.” ECF No. 168 at 4. Thus, the States allege that FEMA’s implementation of a manual review process for payment requests violates the Court’s preliminary injunction order because it constitutes “a categorical pause or freeze of funding appropriate by Congress.” ECF No. 174 at 1.

But the Defendants counter that FEMA’s manual review process is not a “pause or withholding of grant funds” but “simply an internal control where FEMA staff manually review all grant payment requests before disbursing payments to recipients.” ECF No. 172 at 7. Cameron Hamilton, Acting FEMA Administrator, attests that he started this manual review process in response to the Department of Homeland Security (“DHS”) Secretary Kristi Noem’s January 28, 2025 memorandum titled “Direction on Grants to Non-governmental Organizations” (“NGO Grants Directive”) ECF No. 172-1 ¶ 6; *see also* ECF No. 166-2. In the memorandum, Secretary Noem ordered a “hold pending review” on “all Department grant disbursements . . . that (a) go to non-profit organizations or for which non-profit organizations are eligible and (b) touch in any way on immigration.” ECF No. 166-2. Thus, on February 14, Mr. Hamilton formalized the ordered review process, issuing the Grant Processing Guidance that ordered FEMA to review certain “obligations, disbursements, and payments” to ensure compliance with Secretary Noem’s directive. *See* ECF No. 166-7 at 1.

The Defendants assert that this “review” of grant payments is not the type contemplated by the OMB Directive that instructed agencies to “review agency



programs and determine the best uses of the funding for those programs consistent with the law and the President's priorities." ECF No. 172 at 8. Instead, the Defendants assert that the purpose of this review is to "ensure reimbursement payment requests are allowable, allocable, and reasonable per each award's terms and conditions . . . and are free from fraud, waste, or abuse." *Id.*

Further, the Defendants assert that this manual review process is not violative of the Court's injunction because FEMA is relying on its own independent authorities to implement the process rather than the OMB Directive. ECF No. 172 at 10. They contend that under 2 C.F.R. § 200.300(a), FEMA has an obligation to "manage and administer [each] Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, applicable Federal statutes and regulations . . . and the requirements of this part." *Id.* at 11. The Defendants also highlight that relevant grant regulations dictate that for costs to be allowable under an award, such costs must be "necessary and reasonable for the performance of the Federal award and be allocable thereto" and be "adequately documented." *Id.* at 10-11 (citing 2 C.F.R. § 200.403(a), (g); 2 C.F.R. §§ 200.404-405). Thus, the Defendants contend that these regulations illustrate that "FEMA has independent regulatory authority to review payment requests to ensure they are appropriate and lawful before approving funds for disbursement." *Id.* at 11.

But 2 C.F.R. § 200.300(a)'s text is general and nothing within the regulation authorizes FEMA's imposition of the challenged manual review process—which

essentially imposes an indefinite categorical pause on payments. Nor does 2 C.F.R. § 200.403 provide FEMA with independent regulatory authority to conduct such a review as that regulation merely sets forth the criteria that costs must meet to be allowable under Federal awards. As the States point out, 2 C.F.R. Part 200 already prescribes the means that federal agencies may use to manage recipients' performance and ensure appropriate controls over federal awards—such as Subpart D<sup>4</sup> (Post Federal Award Requirements) and Subpart F (Audit Requirements). But neither § 200.300(a) nor § 200.403: (1) add to these existing regulatory mechanisms for managing recipients' compliance the Constitution, federal statutes, and applicable grant terms, or (2) imbue FEMA with the authority to implement an indefinite categorical manual review process with no clear end.<sup>5</sup>

In any event, the States have presented evidence that strongly suggests that FEMA is implementing this manual review process based, covertly, on the President's January 20, 2025 executive order—"Protecting the American People Against Invasions" ("*Invasion* EO"). Section 17 of the *Invasion* EO provides that the DHS

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4 Notably, 2 C.F.R. § 200.339, which falls under Subpart D, provides federal agencies like FEMA with remedies for recipients' noncompliance "with the U.S. Constitution, Federal statutes, regulations, or terms and conditions of the Federal award."

<sup>5</sup> To be clear, the preliminary injunction order does not enjoin the Defendants from making funding decisions based on their actual authority under the applicable statutory, regulatory or grant terms. That said, the regulations the Defendants cite to support FEMA's implementation of this manual review process does not provide FEMA with the "independent regulatory authority" to implement such a "review process" that amounts to an indefinite pause on payments—especially considering the explicit regulatory mechanisms that provides the means for federal agencies to manage federal award recipients' compliance with the Constitution, federal statutes, and grant terms and conditions. *See e.g.*, 2 C.F.R. § 200.339.

Secretary “shall . . . evaluate and undertake any lawful actions to ensure that so-called ‘sanctuary’ jurisdictions . . . do not receive access to Federal funds.” Exec. Order 14159, 90 Fed. Reg. 8443, 8446 (Jan. 29, 2025). Then, section 19 directs that the DHS Secretary shall “(a) Immediately review and, if appropriate, audit all contracts, grants, or other agreements providing Federal funding to non-governmental organizations supporting or providing services, either directly or indirectly, to removable or illegal aliens . . . [and] (b) Pause distribution of all further funds pursuant to such agreements pending the results of the review in subsection (a).” *Id.* at 8447.

Secretary Noem’s NGO Grants Directive take steps to effectuate section 19 of the *Invasion* EO, as she directs a “hold” on “all Department grant disbursements . . . that (a) go to non-profit organizations or for which non-profit organizations are eligible and (b) touch in any way on immigration.” ECF No. 166-2. Further, the NGO Grants Directive was issued barely a week after the *Invasion* EO and a day after the OMB Directive, which called for a pause on disbursements of all federal financial assistance that may be implicated by the Executive Orders—including the *Invasion* EO. *See* OMB M-25-13 at 1-2. The temporal proximity between the issuance of the *Invasion* EO, the OMB Directive, and the NGO Grants Directive further illustrates that Secretary Noem’s mandate to pause DHS funding related to immigration was an effort to carry out the funding pause directed in the *Invasion* EO. Thus, Mr. Hamilton’s assertion that the manual review process was implemented in response

to Secretary Noem's January 28 memorandum truly means that the manual review process was implemented to comply with the funding directives in the *Invasion* EO.

But the connection between FEMA's manual review process and the *Invasion* EO does not end with the NGO Grants Directive. On February 19, Secretary Noem issued a memorandum titled "Restricting Grant Funding for Sanctuary Jurisdictions." ECF No. 174 at 42-43. This memorandum ordered that:

All components are to review all federal financial assistance awards to determine if Department funds, directly or indirectly, are going to sanctuary jurisdictions. To the extent consistent with relevant legal authorities and the applicable terms and conditions of each award, each component must cease providing federal funding to sanctuary jurisdictions."<sup>6</sup>

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<sup>6</sup> The memorandum defines sanctuary jurisdictions as:

- Jurisdictions that fail to comply with the information sharing requirements of 8 U.S.C. §§ 1373 and 1644.
- Jurisdictions that violate other relevant laws, including prohibitions on encouraging or inducing an alien to come to, enter, or reside in the United States in violation of law, 8 U.S.C. § 1324(a)(1)(A)(iv), prohibitions on transporting or moving illegal aliens, *id.* § 1324(a)(1)(A)(ii), prohibitions on harboring, concealing, or shielding from detection illegal aliens, *id.* § 1324(a)(1)(A)(iii), and any applicable conspiracy, aiding or abetting, or attempt liability respecting these statutes.
- Jurisdictions that fail to honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of alien pursuant to a valid detainer. A jurisdiction, however, is not a sanctuary jurisdiction merely because it lacks the necessary resources to assist in a particular instance.
- Any jurisdiction that fails to provide access to detainees, such as when an immigration officer seeks to interview a person who might be a removable alien.
- Any jurisdiction that leaks the existence of an enforcement operation.

ECF No. 174 at 42-43.

*Id.* at 43. On March 20, Mr. Hamilton sent a memorandum to Secretary Noem that outlined FEMA’s proposed plans to ensure compliance with the NGO Grants Directive and the Secretary’s February 19 memorandum. *See id.* at 18-41. Specifically, Mr. Hamilton proposed a “review process” for grant programs that FEMA administers to ensure alignment “with Administration and Secretary priorities on non-governmental organizations, immigration, and sanctuary jurisdictions.” *Id.* at 18. Secretary Noem approved the proposals on March 25. *See id.* at 20-21.

Secretary Noem’s directive that “each component must cease providing federal funding to sanctuary jurisdictions” effectuates the *Invasion* EO mandate that the DHS Secretary “shall . . . evaluate and undertake any lawful actions to ensure that so-called ‘sanctuary’ jurisdictions . . . do not receive access to Federal funds.” *Compare* ECF No. 174 at 43 *with* 90 Fed. Reg. at 8447. Thus, Mr. Hamilton’s March 20 memorandum reveals that FEMA’s adoption of a manual review process—which purports to ensure compliance with Secretary Noem’s February 19 memorandum—is essentially an adoption of a funding review scheme that strives to effectuate the funding mandates in section 17 of the *Invasion* EO, which the Court enjoined in its preliminary injunction.

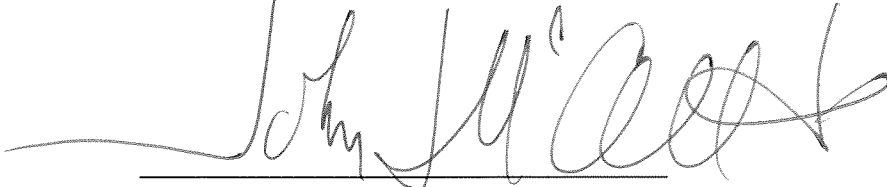
The Court reaffirms its preliminary injunction order that the Defendants are enjoined from “pausing, freezing, blocking, canceling, suspending, terminating, or otherwise impeding the disbursement of appropriated federal funds to the States . . . based on the OMB Directive, including funding freezes dictated, described, or implied

by Executive Orders issued by the President before rescission of the OMB Directive or any other materially similar order, memorandum, directive, policy, or practice under which the federal government imposes or applies a categorical pause or freeze of funding appropriated by Congress.” ECF No. 161 at 44 (emphasis added). FEMA received notice of the preliminary injunction order, the order is clear and ambiguous, and there are no impediments to FEMA’s compliance with the order. The record makes clear that FEMA’s manual review process imposes an indefinite pause on the disbursement of federal funds to the States, based on funding freezes dictated by: (1) the *Invasion* EO—an “Executive Order issued by the President before rescission of the OMB Directive”—and (2) Secretary Noem’s NGO Grant Directive and February 19 memorandum—i.e., memoranda that are “materially similar” to the *Invasion* EO “under which the federal government imposes . . . a categorical pause or freeze of funding appropriated by Congress.” Thus, FEMA’s manual review process violates the Court’s preliminary injunction order. So in accordance with the preliminary injunction order, FEMA is hereby ORDERED as follows:

1. Throughout the duration of the preliminary injunction order, FEMA must immediately cease the challenged manual review process implemented pursuant to Secretary Noem’s “Direction on Grants to Non-governmental Organizations” and “Restricting Grant Funding for Sanctuary Jurisdictions” memoranda—including the manual review process as described in Cameron Hamilton’s March 20, 2025 Memorandum to DHS Secretary Noem.
2. FEMA must immediately comply with the plain text of the preliminary injunction order not to pause or otherwise impede the disbursement of appropriated federal funds to the States based on funding freezes dictated, described, or implied by Executive Orders issued by the President before the rescission of the OMB Directive, which includes sections 17 and 19 of the *Invasion* Executive Order.

3. FEMA must direct notice of this Order and notice of the Court's preliminary injunction order to FEMA's leadership and all FEMA staff who administer these FEMA grants and other federal financial assistance. FEMA shall provide confirmation of these notices, including the names of recipients of the notice, no later than 48 hours after this Order.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

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

April 4, 2025