



1899 L Street, NW, Suite 1200  
Washington, DC 20036

T 202.822.8282  
F 202.296.8834

HOBBSSTRAUS.COM

## MEMORANDUM

May 27, 2025

TO: TRIBAL HOUSING CLIENTS  
FROM: Ed Clay Goodman  
HOBBS, STRAUS, DEAN & WALKER, LLP  
RE: ***Federal Funding Freeze Update***

---

This memorandum reports on litigation concerning the Administration's freezing of federal funds. Below, we provide an update on a preliminary injunction order recently issued in a case concerning the freezing of Inflation Reduction Act (IRA) and Infrastructure Investment and Jobs Act (IIJA) funding:

***The Sustainability Institute et al. v. Trump et al.*<sup>1</sup>**

On March 19, 2025, eleven non-profits<sup>2</sup> and six cities<sup>3</sup> filed a complaint against Donald Trump, President of the United States; Kevin Hassett, Assistant to the President for Economic Policy and Director of the National Economic Council; the Office of Management and Budget (OMB); Russell Vought, the Director of the OMB; the Environmental Protection Agency (EPA); Lee Zeldin, the Administrator of the EPA; the Department of Agriculture (USDA); Brooke Rollins, the Secretary of USDA; the Department of Transportation (DOT); Sean Duffy, the Secretary of DOT; the Department of Energy (DOE); Chris Wright, Secretary of DOE; the Department of Governmental Efficiency Service (DOGE); Amy Gleason, Acting Administrator of DOGE; and Elon Musk, Senior Advisor of DOGE (Defendants), in the United States District Court for South Carolina alleging Defendants violated the Administrative Procedures Act (APA) and the United States Constitution by freezing millions of dollars in grants awarded to Plaintiffs under the Inflation Reduction Act (IRA) and the Infrastructure Investment and Jobs Act (IIJA), and other mandatory appropriations.

On March 26, 2025, Plaintiffs filed a motion for preliminary injunction (PI). On May 16, 2025, Defendants advised the Court that they do not contest judgment on the merits of Plaintiffs' APA claims for 32 of the 38 grants at issue in this case. Though they

---

<sup>1</sup> No. 2:25-cv-02152 (D.S.C. 2025).

<sup>2</sup> The Sustainability Institute; Agrarian Trust; Alliance for Agriculture; Alliance for the Shenandoah Valley; Bronx River Alliance; CleanAIRE NC; Conservation Innovation Fund; Marbleseed; Leadership Counsel for Justice and Accountability; Pennsylvania Association for Sustainable Agriculture; and Rural Advancement Foundation International-USA.

<sup>3</sup> Baltimore, Maryland; Columbus, Ohio; Madison, Wisconsin; Nashville, Tennessee; New Haven, Connecticut; and San Diego, California.

do not contest judgment for 32 of the grants, Defendants still opposed injunctive relief for Plaintiffs while Defendants contest the Court's jurisdiction under the APA. The six grants Defendants still contested are those funded by general appropriations to the USDA.

On May 20, 2025, the District Court issued its order on the Plaintiffs' motion for preliminary injunction. As to the 32 uncontested APA claims, the Court declared that the freezing or termination of the EPA, USDA, DOE, and DOT grants was an unlawful agency action. The Court ordered those agencies to restore Plaintiffs' access to those grant funds, and enjoined the agencies from freezing, terminating, or otherwise interfering with the funding of those grants without prior written authorization from the Court.

As to the non-statutory review claims for equitable relief against the federal officials on the basis that those federal officials exceeded the scope of their authority and/or acted unconstitutionally with respect to the 32 uncontested grants, the Court determined: (1) the Plaintiffs' separation of powers and ultra vires claims sufficiently state a claim for non-statutory review; (2) the Court has jurisdiction over those claims (3) the Plaintiffs have standing to bring those claims; and (4) the Plaintiffs have shown a likelihood of success on the merits because the evidence shows the federal officials did not individually review the frozen or terminated grants. As a result, the Court ordered that:

- Lee Zeldin (EPA), Brook Rollins (USDA), Sean Duffy (DOT), and Chris Wright (DOE) are enjoined from freezing and/or terminating the 32 uncontested grants and must restore Plaintiffs' access to funding for these grants.
- Lee Zeldin (EPA), Brook Rollins (USDA), Sean Duffy (DOT), and Chris Wright (DOE) are also enjoined from freezing, terminating, or otherwise interfering with the funding of the 32 uncontested grants without prior written authorization from the Court.

As to the remaining 6 contested grants, which were administered by the USDA and funded via the Partnerships for Climate Smart Commodities, the Court determined the Plaintiffs were *not* likely to succeed on the merits based on the existing record, but that further discovery and a fuller record could change that determination.

Overall, the Court ordered that:

- Judgment is entered for Plaintiffs regarding the uncontested APA claims, and Plaintiffs are provided declaratory and permanent injunctive relief.
- Preliminary injunction is granted for the 32 uncontested grants regarding Plaintiffs' non-statutory review claims.
- Preliminary injunction is denied for the 6 grants awarded under USDA's Partnerships for Climate Smart Commodities program.

### **Conclusion**

If you have questions or would like additional information about anything discussed above, please do not hesitate to contact me at 503-242-1745 or by email at [egoodman@hobbsstrauss.com](mailto:egoodman@hobbsstrauss.com).