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MEMORANDUM

TO: **Interested Parties**
FROM: **Penn Hill Group**
DATE: **January 28, 2025**
SUBJECT: **OMB Memorandum on a Temporary Pause in Federal Program Activities**

Note: We understand that actions and information about this Office of Management and Budget (OMB) memorandum are circulating and changing quickly. We share the information circulated from the evening of January 27 through the evening of January 28, 2025. We expect the situation to continue to evolve over the coming days and weeks. This is what we know at this point in time.

On January 27, OMB sent Federal agencies a [memorandum](#) regarding a temporary pause in the activities carried out under certain Federal programs. OMB subsequently published some [questions and answers \(Qs & As\)](#) that provide some clarification on issues discussed in the OMB memorandum.

The purpose of this memorandum is to summarize the OMB memorandum and its implications (particularly the implications for U.S. Department of Education (ED) and U.S. Department of Labor (DOL) programs). **The implementation of the OMB memorandum has since been temporarily blocked by a Federal District Court judge through February 3 at 5:00 p.m.**

In brief, the memorandum requires agencies to “pause,” effective 5:00 p.m. today, (January 28), all activities related to the obligation or disbursement of Federal assistance for activities that “may be implicated by” the Executive Orders that President Trump has signed since taking office last week. Agencies are then required to review their programs and activities to ensure that they are consistent with the President’s policies and requirements, and submit the results of their reviews to OMB by February 10. Agencies must also immediately report to OMB regarding any legally mandated deadlines for assistance programs that will occur during the time the pause remains in effect. Agencies may apply to OMB for any exceptions to the pause.

In the following paragraphs, we respond to questions we have received about the memorandum and its implications, based on what we know at this time.

What categories of programs are subject to the pause?

The memorandum states that the pause will cover all “Federal financial assistance” as defined in general Federal regulations, except for programs that provide funding directly to individuals. The memorandum further specifies that it should not be construed to affect Social Security or Medicare benefits.

The Federal regulations at issue ([2 CFR 200.1](#)) define Federal financial assistance as including grants, cooperative agreements, loans, non-cash contributions or donations of property, direct

appropriations, food commodities, loans, loan guarantees and insurance. Notably, the list does not include funds awarded by contract.

We understand that there has been some concern about whether the pause could affect the Pell Grant program (which provides support to individual students, although the funds flow to institutions of higher education) and Federal student loans originated through ED. The Qs & As indicate the Pell Grants and Federal student loans will not be affected. A subsequent [electronic announcement issued by Federal Student Aid](#) stated that the memorandum would not impact "Title IV, Higher Education Act (HEA) funds, which are provided to individual students". While Title IV, HEA funds includes Pell grants and Federal student loans, it also includes other programs such as Federal Work-Study and Supplemental Educational Opportunity Grants for which no specific answer on the memorandum's applicability has been provided.

The pause will cover only programs implicated by Executive Orders. Which Executive Orders does that include?

The memorandum is not clear on this issue. It lists seven specific Executive Orders signed by President Trump but does not say that those are the only Executive Orders that agencies should consider in determining which activities to pause. However, the Qs & As appear to limit consideration to those seven Executive Orders. Of the seven, the ones we believe most likely to be at issue for ED and DOL are the ones titled "Ending Radical and Wasteful DEI Programs and Preferencing" and "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government."

Could the pause affect formula grant programs like Title I or IDEA State Grants, including?

Although, by its terms, the memorandum would appear to apply to both formula and competitive grants, ED has stated that its pauses and reviews will not include formula grants and lists Title I of the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA) specifically. ED's statement which was received by several Penn Hill Group clients appears below.

Madison "Madi" Biedermann, Deputy Assistant Secretary for Communications and Outreach at the U.S. Department of Education, shared the following:

"The funding pause directed by the January 27, 2025, OMB memorandum only applies to discretionary grants at the Department of Education. These will be reviewed by Department leadership for alignment with Trump Administration priorities. The temporary pause does not impact Title I, IDEA, or other formula grants, nor does it apply to Federal Pell Grants and Direct Loans under Title IV, HEA. The Department is working with OMB to identify other programs that are not covered by the memo."

How will agencies determine which programs and activities are implicated by the Executive Orders?



The memorandum does not provide any detail on this issue. A template subsequently distributed to the agencies asks questions like “Does this program provide funding that is implicated by the directive to end funding for discriminatory programs, including illegal DEI and “diversity, equity, inclusion, and accessibility (DEIA) mandates, programs, policies, preferences, and activities, under whatever name they appear, or other directives in the same EO, including those related to ‘environmental justice’ and ‘equity-related’ grants?”, but does not provide additional clarification on what that language means. Further, the Executive Order on DEI did not define DEI, DEIA, environmental justice or equity-related grants. It appears that Administration officials will have wide latitude in deciding which programs and activities to pause.

We note further that a pause would not have to apply to an entire program; one or more grants made under a program could be identified as implicated by an EO and then paused, with the other grants under the program allowed to continue.

What types of activities will be encompassed in the pause?

The memorandum indicates that the pause will cover all activities related to current or prospective financial assistance, including the announcement and administration of competitions for new grants (including peer reviews) and the ability of current grantees and other recipients to continue drawing down funding.

What will be covered in agencies’ program reviews?

As noted above, the agencies are required to report to OMB by February 10 on the extent to which their programs and activities are implicated by the Executive Orders or otherwise inconsistent with the President’s policies and priorities. OMB has given agencies a template to use in providing that information. As with the question noted above, the template poses questions about whether a program would not be allowed under an Executive Order (e.g., “Does the program promote gender ideology?”). Other questions ask more generally whether a program is inconsistent with the Executive Orders.

The instructions accompanying the template direct agencies to include information on all programs that have funding or activities planned through March 15. It is not clear how those parameters relate to grants under which grantees may draw down funds at any time. Those instructions, and the memorandum itself, do not specify that only programs covered by an agency’s initial pause are to be included in the agency’s reviews.

What will happen after February 10 with respect to the pause and what other actions must agencies take under the memorandum?

This issue is not directly addressed in the memorandum and ED has not formally opined on when grantees of a programs which were subject to the pause would know the status of any OMB review or guidance provided to the agency. The memorandum does address additional actions that agencies must take during the pause and the review of programs including that for each Federal financial assistance program an agency must:

- (i) assign responsibility and oversight to a senior political appointee to ensure Federal financial assistance conforms to Administration priorities;

(ii) review currently pending Federal financial assistance announcements to ensure Administration priorities are addressed, and, subject to program statutory authority, modify unpublished Federal financial assistance announcements, withdraw any announcements already published, and, to the extent permissible by law, cancel awards already awarded that are in conflict with Administration priorities, and;

(iii) ensure adequate oversight of Federal financial assistance programs and initiate investigations when warranted to identify underperforming recipients, and address identified issues up to and including cancellation of awards.