AS FEDERAL GRANT TERMINATIONS GROW, AWARD RECIPIENTS SHOULD BE PROACTIVE, BUT ALSO PRESERVE THEIR RIGHTS

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US Policy and Regulatory Alert

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As the Trump Administration implements its agenda, executive agencies have moved to terminate billions of dollars in federal grants authorized under the Biden Administration. This alert discusses the administrative process for appealing grant terminations and provides a snapshot into current litigation surrounding these issues. This alert also suggests that award recipients take proactive steps to identify where their federal awards may be recast as being consistent with the current administration's priorities, particularly in the energy space, where grid stability and reliable energy production are paramount to President Trump's second-term agenda. Articulating these harmonies may increase the chances for a negotiated resolution.

LAW SURROUNDING GRANT TERMINATIONS

Most grant terminations and challenges are subject to the OMB Guidance for Financial Assistance at 2 C.F.R. § 200. The regulations under Part 200 set forth the administrative requirements and standards concerning the termination of federal awards, including the requirements for financial management, procurement, and reporting. The regulations in 2 C.F.R. § 200 have been adopted by most federal agencies, making it an important point of reference for entities involved in federal grant programs.

Sections 200.340–343 provide a uniform set of conditions and procedures that agencies must adhere to when terminating grants. Section 200.340 specifies the conditions under which a federal award may be terminated. Section 200.340(a) specifies that a federal award may be terminated under four circumstances: (1) if the recipient or subrecipient fails to comply with the award's terms and conditions; (2) if the parties consent to termination; (3) upon notice by the recipient or subrecipient to the federal agency; or (4) by the federal agency “pursuant to the terms and conditions of the federal award, including, to the extent authorized by law, if the award ceases to effectuate program goals or agency priorities.” OMB published the final rule that added Section (a)(4) on 4 April 2024, with an effective date of 1 October 2024. Thus, many grants terminated on this basis were awarded prior to the effective date of the regulatory change.

Circumstance (4) has often been cited in litigation arising from grant terminations, with agency officials emphasizing the part allowing termination “if the award ceases to effectuate program goals or agency priorities” and with award recipients emphasizing the part allowing termination “to the extent authorized by law.”[1] At this stage of litigation, courts so far have only ruled on requests for injunctive relief and other procedural dispositive motions. But they have highlighted that agencies must, pursuant to these regulations, provide written notice of termination, including individualized reasons for termination, the effective date, and the portion of the award to be

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terminated. Additionally, agencies must offer recipients an opportunity to object and provide information challenging the termination action. Separately, constitutional, contractual, and statutory issues have also been raised in litigation surrounding these provisions.[2]

To date, most of the challenges have sought injunctive relief in US district courts pursuant to the Administrative Procedure Act (APA), requesting a restoration of funding or a suspension of termination. However, grant recipients that have chosen this path may now have to rethink their strategy. This is because, on 21 August 2025, the US Supreme Court signaled strongly that where the requested relief would ultimately result in payment of money by the United States, as the APA injunctions would have done, the case should be brought in the Court of Federal Claims under the Tucker Act.[3]

PROACTIVE PATH

Whether you are a party concerned about a grant termination or have received a notice of termination, consider taking a proactive path. While a federal awardee may end up determining that they have no viable options other than litigation to protect their companies or their investors, federal awardees should first explore whether their grants are, in fact, inconsistent with Trump Administration priorities. Not only will this inquiry serve as an important foundation to any later legal challenge, but it also furthers a basis for negotiation.

Consider the Trump Administration's recent announcement of an American Action Plan on Artificial Intelligence, for example. A central pillar of this plan is grid stability and an uninterrupted power supply. The plan calls to "[s]tabilize the grid of today as much as possible...safeguard existing assets...[and] ensure[] an uninterrupted and affordable supply of power."[4] Other aspects of the Trump Administration's executive orders on "Unleashing American Energy" are entirely consistent with new technologies aimed at energy storage, efficiency, and production.

Many funded technologies derided for being "green" are critical sources of new power generation and grid stabilization. Communicating where there is alignment with administration priorities and where terminated grants help to advance administration goals may form part of a constructive dialogue with federal agencies aimed at preserving government funding, or avoiding losses associated with termination.

CONCLUSION

Recipients of federal grant awards facing termination or the risk of termination should review their legal options while opening a dialogue with agency officials. While litigation options exist, there are both jurisdictional and substantive challenges to overcome. Being proactive and attempting a negotiated solution, in the first instance, may be a prudent initial option. In this rapidly evolving landscape, our Policy and Regulatory practice team is closely monitoring these developments and is ready to provide strategic counsel and targeted advocacy surrounding key federal grants.

FOOTNOTES

[1] *E.g., Am. Assoc. of Univ. Prof. & Am. Fed. of Teachers v. U.S. DOJ*, No. 25-CV-2429 (MKV), 2025 WL 1684817, at *15 (S.D.N.Y. June 16, 2025); *San Francisco A.I.D.S. Found. v. Trump*, No. 25-CV-01824-JST, 2025 WL

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1621636, at *24 (N.D. Cal. June 9, 2025); *Martin Luther King, Jr. Cnty. v. Turner*, No. 2:25-CV-814, 2025 WL 1582368, at *15 (W.D. Wash. June 3, 2025).

[2] Some individual agencies have supplemented the 2 C.F.R. part 200 regulations with regulations of their own. For instance, the U.S. Environmental Protection Agency (EPA) has regulations governing federal awards codified under 2 C.F.R. § 1500, subpart B, some of which may be implicated in terminations such as the EPA's planned termination of US$7 billion in grants for rooftop solar projects supposed to serve lower- and middle-income consumers. Also, Department of Energy (DOE) had supplemental regulations in 10 C.F.R. part 600 governing grant termination, but it recently rescinded them, deeming them obsolete following the adoption of 2 C.F.R. parts 200 and 910 in 2014. See Rescinding Obsolete Financial Assistance Rules, 90 Fed. Reg. 31,133 (July 14, 2025). The rescission of part 600 became effective 13 August 2025. *Id*. Thus, sections 200.340–343 are the main governing regulations pertaining to the DOE's grant terminations.

[3] *Nat'l Inst. of Health v. Am. Pub. Health Ass'n*, 606 U.S. ____ (2025).

[4] Exec. Off. of the Pres., Winning the Race: America's AI Action Plan at 15 (July 2025), https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf.

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