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## OMB Memo M-25-13 (Rescinded)

The 2020-01 OMB Memo, issued on January 27, 2025, by the Office of Management and Budget (OMB), directs all federal agencies to temporarily pause the obligation and disbursement of financial assistance programs, including grants and loans. The memorandum was rescinded on January 29.

The memorandum aligns federal spending with the administration's policy priorities, emphasizing American energy independence, manufacturing growth, and government efficiency while curbing funding for diversity, equity, and inclusion (DEI) initiatives, gender ideology programs, and environmental policies linked to the Green New Deal. Agencies must conduct a thorough review of financial assistance programs, submit reports to OMB detailing their alignment with executive orders, and assign senior oversight officials to ensure compliance. Additionally, the OMB may grant case-by-case exceptions where necessary, and agencies are instructed to increase scrutiny of recipients to identify underperformance or misalignment with policy objectives. This directive underscores the administration's intent to reshape federal financial assistance programs to reflect its broader political and economic agenda.

Memorandum's highlights are listed below.

### 1. Temporary Pause in Federal Financial Assistance

- Agencies must immediately halt all obligations and disbursements related to federal financial assistance programs.
- This includes grants, loans, and other aid programs that may conflict with the administration's priorities.

### 2. Alignment with Presidential Priorities

- Agencies must ensure that financial assistance supports the administration's objectives, including energy independence, manufacturing, and efficiency.
- Programs supporting diversity, equity, and inclusion (DEI), gender-related policies, and environmental initiatives under the Green New Deal are specifically flagged for review.

### 3. Review of Assistance Programs

- Agencies must conduct a thorough review of all financial assistance programs to assess alignment with newly issued executive orders.
- This review includes identifying legally mandated programs that cannot be paused.

### 4. Reporting Requirements

- Agencies must submit detailed reports by February 10, 2025, on any programs subject to the pause.
- These reports must include justification for any exceptions and details on how programs align with administration priorities.

### 5. Senior Oversight & Program Modifications

- Agencies must assign senior political appointees to oversee financial assistance programs.
- Pending financial assistance announcements should be reviewed, modified, or withdrawn if they conflict with the administration's priorities.
- Existing awards can be canceled where legally permissible.

## 6. Case-by-Case Exceptions

- OMB may grant specific exceptions allowing agencies to issue new awards or take other financial actions if deemed necessary.

## 7. Increased Scrutiny and Oversight

- Agencies must improve oversight of financial assistance recipients.
- Investigations should be conducted where necessary, with potential cancellation of underperforming or non-compliant awards.

## What is included and excluded?

The footnote on **page 1** of the **OMB Memo** clarifies the definition of **Federal financial assistance** as it applies to this memorandum. It references **2 CFR 200.1**, which provides the regulatory definition of federal financial assistance. According to the footnote:

### 1. Definition of Federal Financial Assistance

- Federal financial assistance includes various forms of funding that recipients or subrecipients receive or administer.
- This can include grants, cooperative agreements, loans, and other types of financial support provided by the federal government.

### 2. Exclusions from the Definition

- The footnote explicitly states that this definition **does not include assistance provided directly to individuals**.
- This means that direct payments to individuals (e.g., Social Security benefits or Medicare payments) are not considered federal financial assistance for the purposes of this memo.

### 3. Scope of the Definition in the Memo

- The memo applies to **all forms of assistance** listed in **paragraphs (1) and (2) of the definition in 2 CFR 200.1**.
- It applies to **assistance received or administered by recipients or subrecipients of any type**, except for funds going directly to individuals.

This footnote clarifies that the temporary pause on federal financial assistance does **not** impact **direct benefits** such as Social Security or Medicare but does apply to a wide range of grants, loans, and funding provided to organizations, nonprofits, state and local governments, and other recipients.

## Definition of Federal Assistance in the OMB Memo

The definition of **Federal financial assistance** in **2 CFR 200.1** includes several categories, and paragraphs **(1) and (2)** specifically outline the types of assistance covered under the regulation. Here's what they include:

### 1. Paragraph (1): Direct Assistance

- Grants and cooperative agreements
- Non-cash contributions or donations of property

- Direct assistance in the form of surplus property
- Any other assistance that supports a public purpose

## 2. Paragraph (2): Financial Assistance Administered Through Others

- Money, property, or services provided through other entities (i.e., recipients or subrecipients)
- Federal cost reimbursement contracts under the Federal Acquisition Regulations (FAR) when used for public purposes

This means that **all federal grants, cooperative agreements, donated property, and financial assistance programs administered through intermediaries** (such as state and local governments, nonprofits, or contractors) fall under the definition in the OMB memo. However, **contracts that serve a procurement purpose (rather than a public assistance purpose) are generally excluded** from this definition.

## Explicit Exclusions

The footnote on page 1 says “Nothing in this memo should be construed to impact Medicare or Social Security benefits.” It does not call out Medicaid, and scores of other programs like Meals on Wheels, HeadStart, etc.

## Executive Orders used to Draft the OMB Memo

The memo explicitly states: *“Financial assistance should be dedicated to advancing Administration priorities, focusing taxpayer dollars to advance a stronger and safer America, eliminating the financial burden of inflation for citizens, unleashing American energy and manufacturing, ending “wokeness” and the weaponization of government, promoting efficiency in government, and Making America Healthy Again. The use of Federal resources to advance Marxist equity, transgenderism, and green new deal social engineering policies is a waste of taxpayer dollars that does not improve the day-to-day lives of those we serve.”*

The memo describes the Executive Orders setting policy that it has used to derive its authority to issue the OMB Memo as:

*“This memorandum requires Federal agencies to identify and review all Federal financial assistance programs and supporting activities consistent with the President’s policies and requirements. For example, during the initial days of his Administration, President Donald J. Trump issued a series of executive orders to protect the American people and safeguard valuable taxpayer resources, including*

- *Protecting the American People Against Invasion (Jan. 20, 2025),*
- *Reevaluating and Realigning United States Foreign Aid (Jan. 20, 2025),*
- *Putting America First in International Environmental Agreements (Jan. 20, 2025),*
- *Unleashing American Energy (Jan. 20, 2025),*
- *Ending Radical and Wasteful Government DEI Programs and Preferencing (Jan. 20, 2025),*
- *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government (Jan. 20, 2025), and*
- *Enforcing the Hyde Amendment (Jan. 24, 2025).”*

## What were agencies asked to pause?

Agencies must stop:

- issuance of new awards;
- disbursement of Federal funds under all open awards; and
- other relevant agency actions that may be implicated by the executive orders, to the extent permissible by law,

until OMB has reviewed and provided guidance to your agency with respect to the information submitted.

## New Requirements for Federal Financial Assistance Programs

The OMB Memo introduces several **new requirements** for federal financial assistance programs, aimed at aligning them with the administration's policy priorities. In addition to the temporary pause on federal assistance programs and comprehensive program review described earlier (items 1 and 2 below), the following new requirements are imposed on agencies (especially 3, 4 and 6 below):

### 1. Temporary Pause in Federal Financial Assistance

- Agencies must **immediately stop** the obligation and disbursement of all federal financial assistance, including grants and loans.
- The pause applies to programs that may conflict with executive orders issued by the administration.
- Agencies must **identify any legally mandated actions** (such as statutory funding requirements) that cannot be paused and report them to OMB.

### 2. Comprehensive Program Review

- Agencies must **review all financial assistance programs** to determine whether they align with new policy priorities.
- This review includes assessing how each program aligns with executive orders, particularly those targeting foreign aid, DEI initiatives, gender ideology policies, and environmental programs under the Green New Deal.
- The review must identify **programs that require modification, termination, or realignment** to fit the administration's goals.

### 3. New Reporting and Oversight Responsibilities

- Agencies must submit **detailed reports to OMB by February 10, 2025**, listing all programs affected by the pause.
- Reports should include justifications for any exceptions requested and demonstrate how programs align with the administration's priorities.
- *Each agency must **assign a senior political appointee** to oversee financial assistance programs and ensure compliance with the administration's objectives.*

#### 4. Immediate Modifications to Existing and Future Financial Assistance

- Agencies must review, modify, or withdraw **pending financial assistance announcements** to ensure alignment with policy priorities.
- Where legally permissible, agencies are instructed to **cancel previously awarded funds** that conflict with the administration's agenda.
- Agencies must **pause merit review panels** for open Notices of Funding Opportunities (NOFOs) and halt processing of new financial assistance applications.

#### 5. Option for Case-by-Case Exceptions

- The OMB may grant **exceptions** allowing agencies to continue issuing awards or disbursing funds, but only on a **case-by-case basis**.
- Agencies must provide **strong justifications** for exceptions, ensuring they comply with legal requirements and administration objectives.

#### 6. New Increased Scrutiny and Enforcement Measures

- Agencies must **increase oversight of federal financial assistance recipients** to ensure compliance with administration priorities.
- Agencies should **investigate underperforming recipients** and take corrective action, up to and including **cancellation of awards** for noncompliance.
- The OMB directs agencies to ensure **federal funds are not used for programs that support DEI initiatives, gender ideology policies, or environmental projects linked to the Green New Deal**.

### What key federal statutes may the OMB Memo be in conflict with?

The actions outlined in the **OMB Memo** could potentially **conflict** with several **federal statutes** that govern federal financial assistance, administrative processes, and agency discretion. Some key statutes that may be implicated include:

#### 1. The Administrative Procedure Act (APA) – 5 U.S.C. §§ 551-559

- The **APA requires federal agencies to follow specific procedures** when implementing significant policy changes, including providing notice, allowing for public comment, and ensuring decisions are not arbitrary or capricious.
- A **sudden pause** on federal financial assistance without public input or adequate justification could be challenged as a violation of the APA's "**arbitrary and capricious**" standard under 5 U.S.C. § 706(2)(A).
- Courts have historically overturned agency decisions that do not provide a **reasoned explanation** for policy reversals.

#### 2. The Impoundment Control Act of 1974 – 2 U.S.C. §§ 681-688

- This law **limits the President's ability to withhold or delay Congressionally appropriated funds** for discretionary programs.
- **Pausing the disbursement of federal financial assistance** could be seen as an attempt to **impound funds**, violating the statute unless Congress explicitly authorizes the delay.

- The Trump administration previously faced legal challenges under this Act for delaying funds to Ukraine in 2019, reinforcing the potential for legal scrutiny.

### 3. The Federal Grant and Cooperative Agreement Act of 1977 – 31 U.S.C. §§ 6301-6308

- This law **distinguishes between contracts, grants, and cooperative agreements** and provides guidance on the lawful administration of federal financial assistance.
- Unilaterally **canceling existing awards** or modifying funding criteria based on political priorities **without statutory authority** could raise legal challenges under this Act.

### 4. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. § 2000d

- This statute prohibits **discrimination based on race, color, or national origin** in federally funded programs.
- If federal agencies **cancel financial assistance programs related to DEI (Diversity, Equity, and Inclusion)**, they may face legal challenges if those actions **disproportionately impact protected groups** or create barriers to equal opportunity.

### 5. The Fair Housing Act – 42 U.S.C. §§ 3601-3619

- If housing-related **federal financial assistance is paused or rescinded**, agencies could face legal challenges under this law, which **prohibits discrimination in housing programs** that receive federal funding.
- Agencies cutting funds to initiatives supporting low-income housing, particularly those benefiting marginalized communities, may trigger litigation.

### 6. The Hyde Amendment (Annual Appropriations Rider)

- The memo references the **Hyde Amendment**, which prohibits the use of federal funds for abortion services.
- If federal agencies attempt to **expand** restrictions beyond what the Hyde Amendment legally allows, there could be challenges arguing the administration is exceeding its authority.

### 7. The Foreign Assistance Act of 1961 – 22 U.S.C. §§ 2151 et seq.

- This Act **governs U.S. foreign aid** and sets conditions on how aid is distributed internationally.
- A sudden **pause on foreign aid** could violate statutory requirements that mandate continued support for certain international programs unless Congress authorizes the change.

### 8. The Energy Policy Act of 2005 – 42 U.S.C. §§ 15801 et seq.

- If the memo's directive leads to the **defunding of clean energy programs** established under this Act, it could **conflict with federal laws promoting renewable energy development**.
- Some grants for energy efficiency, research, and infrastructure upgrades are **legally mandated** under this statute.

## Potential Legal Challenges

- **State governments, nonprofit organizations, and grant recipients** may challenge the implementation of this memo in federal court.

- Courts could block implementation if it is found to be inconsistent with **Congressional intent** or violates existing **statutory requirements**.
- Prior **executive attempts to redirect federal spending** (such as the Trump administration's reallocation of military funds for border wall construction) have faced legal setbacks, indicating that similar challenges may arise here.

## Summary

These new requirements fundamentally reshape how federal financial assistance is awarded, prioritizing programs that align with the administration's policy agenda while defunding or modifying those that do not.



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## Appendix

Here are 10 prior executive attempts to redirect federal spending that faced legal setbacks since 2000:

### 1. Trump Administration – Border Wall Funding (2019-2020)

- **Action:** President Trump attempted to **redirect \$2.5 billion from military construction and counter-drug funds** to build the southern border wall after declaring a **national emergency**.
- **Legal Challenge:** Several states, including **California and New Mexico**, along with the **Sierra Club**, sued, arguing that Congress did not approve the reallocation.
- **Outcome:** The **Supreme Court (Biden v. Sierra Club, 2021)** ruled that the redirection was **unlawful**, as it bypassed Congressional appropriations authority. [\[LINK\]](#)

### 2. Obama Administration – Cost-Sharing Reduction Payments (2014-2016)

- **Action:** The **Affordable Care Act (ACA)** provided for **cost-sharing reduction (CSR) payments** to help insurers cover low-income Americans. The Obama administration **funded these payments without explicit Congressional appropriation**.
- **Legal Challenge:** The **House of Representatives** sued, arguing that the payments were unconstitutional because Congress had not appropriated the funds.
- **Outcome:** A **federal court ruled in House v. Burwell (2016)** that the spending was **unlawful** because Congress had not approved the funding. [\[LINK\]](#)

### 3. Trump Administration – Delaying Ukraine Military Aid (2019)

- **Action:** The Trump administration **withheld \$391 million in military aid** to Ukraine, which Congress had already appropriated.
- **Legal Challenge:** The **Government Accountability Office (GAO)** found that the delay **violated the Impoundment Control Act of 1974**, which requires the executive branch to spend Congressionally appropriated funds as directed.
- **Outcome:** The aid was released after **bipartisan pressure**, and the issue was a central point in Trump's first impeachment. [\[LINK\]](#)

### 4. Bush Administration – Medicare Part D Implementation (2003-2005)

- **Action:** The Bush administration attempted to **reallocate funds from other Medicare programs** to help cover costs of the **Medicare Part D prescription drug benefit** without explicit Congressional approval.
- **Legal Challenge:** Lawmakers challenged this action, arguing that **funding should have been explicitly appropriated by Congress**. Congress passed the **Medicare Prescription Drug, Improvement, and Modernization Act (MMA)** of 2003 instead. This law added prescription drug coverage to Medicare.
- **Outcome:** The **GAO ruled against the administration**, requiring Congress to formally appropriate additional funding. [\[LINK\]](#)



## 5. Obama Administration – Deferred Action for Childhood Arrivals (DACA) Funding (2012)

- **Action:** The Obama administration **reallocated** DHS funds to implement the DACA program without Congressional approval.
- **Legal Challenge:** Critics argued that the **executive branch did not have the authority** to redirect federal resources for a program that was not Congressionally authorized.
- **Outcome:** While courts upheld DACA's **legality**, lawsuits later challenged funding mechanisms, leading to uncertainty over the program's future. [\[LINK\]](#)

## 6. Trump Administration – Redirection of CDC COVID-19 Funds (2020)

- **Action:** The Trump administration attempted to **redirect CDC funding** allocated for COVID-19 response **toward an unrelated vaccine awareness campaign** that was widely seen as politically motivated.
- **Legal Challenge:** Public health experts and lawmakers **opposed the redirection**, arguing that it was an improper use of pandemic relief funds.
- **Outcome:** After scrutiny, the GAO found that the **reallocation violated Congressional intent**, and the funds were **restored to pandemic response efforts**. [\[LINK\]](#)

## 7. Obama Administration – Green Energy Loan Program (2010-2011)

- **Action:** The Obama administration used **stimulus funds** to support **Solyndra**, a solar energy company, despite warnings that the loan guarantee program was risky.
- **Legal Challenge:** Congressional Republicans launched an investigation into the administration's **prioritization of politically connected companies**.
- **Outcome:** While **no legal ruling invalidated the spending**, **Solyndra's bankruptcy** and allegations of improper redirection of stimulus funds **led to policy changes in the Department of Energy loan program**. [\[LINK\]](#)

## 8. Trump Administration – FEMA Funds for Unemployment Benefits (2020)

- **Action:** President Trump ordered the **redirection of \$44 billion in FEMA disaster relief funds** to temporarily provide **supplemental unemployment benefits** after Congressional negotiations stalled.
- **Legal Challenge:** Critics argued that the **executive order bypassed Congress**, which controls appropriations for disaster relief.
- **Outcome:** The funding was **quickly exhausted**, and Congress later passed a formal unemployment aid package, **nullifying the need for continued FEMA redirection**. [\[LINK\]](#)

## 9. Biden Administration – Student Loan Forgiveness (2022-2023)

- **Action:** The Biden administration attempted to **use HEROES Act authority** to forgive up to **\$20,000 per borrower** in federal student loan debt without Congressional approval.

- **Legal Challenge:** Several states sued, arguing that the executive branch **could not reallocate federal loan resources** without legislative authorization.
- **Outcome:** The Supreme Court (*Biden v. Nebraska*, 2023) struck down the program, ruling that the action exceeded executive authority. [\[LINK\]](#)

## 10. Bush Administration – Iraq Reconstruction Funds (2004-2006)

- **Action:** The Bush administration attempted to **reallocate funding meant for Iraqi infrastructure** toward counterinsurgency efforts without specific Congressional authorization.
- **Legal Challenge:** Lawmakers pushed back, arguing that Congress had **earmarked funds for reconstruction projects** and that executive redirection was unconstitutional.
- **Outcome:** Congress **blocked further fund transfers**, requiring the administration to seek additional appropriations for military operations. [\[LINK\]](#)

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## Key Legal Themes in These Cases:

1. **Impoundment Control Act Violations** – Executives cannot withhold or redirect funds without Congressional approval (e.g., Ukraine Aid, Border Wall).
2. **Administrative Procedure Act Violations** – Major spending decisions require proper notice, public input, and justification (e.g., Student Loan Forgiveness).
3. **Constitutional Separation of Powers** – The executive branch **cannot unilaterally reallocate funds** outside of statutory authority (e.g., FEMA Unemployment Funds, Iraq Reconstruction).
4. **GAO Investigations & Court Challenges** – The Government Accountability Office (GAO) frequently intervenes in **executive reallocation of funds** that violate federal statutes (e.g., COVID-19 CDC Funding, Medicare Part D).
5. **Judicial Review of Policy Shifts** – Courts often **invalidate funding decisions** that lack Congressional authorization or **fail to follow regulatory procedures** (e.g., ACA CSR Payments, Green Energy Loans).