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Office of the Attorney General

February 6, 2025

Mr. Paul Lhevine
President & CEO
Colorado Nonprofit Association
1600 Downing Street, Suite 750
Denver, CO 80218

RE: Federal Assistance Program Spending Freezes

Dear Mr. Lhevine:

As you know, through multiple executive orders issued by the White House since January 20, 2025, and a now-rescinded directive by the U.S. Office of Management and Budget, federal assistance programs have been placed in a state of uncertainty. This uncertainty is caused by the significant vagueness and apparent lack of legality or statutory authority in these federal directives, directing the delay or blockage of federal funds—funds lawfully appropriated by the U.S. Congress—to Colorado government agencies and nonprofit organizations.

Last week, many Colorado government agencies and nonprofit organizations received communications from federal agencies that their federal disbursements would be placed on hold. Others could not log in to federal portals to draw down committed federal dollars. These actions improperly—and, as the Department of Law contends, unlawfully—blocked critical federal funding from reaching Colorado nonprofit organizations, local governments, and state agencies to support programs essential to Coloradans and our communities.

Because these actions by the federal government were in violation of duly enacted congressional authorizations and appropriations bills, Democratic state attorneys general sought and received a temporary restraining order (“R.I. Order”) from the U.S. District Court for the District of Rhode Island on January 31, 2025. *New York et al. v. Trump et al.*, C.A. No. 25-cv-39-JJM-PAS. Under the TRO, federal agencies:

. . . shall not pause, freeze, impede, block, cancel, or terminate Defendants’ compliance with awards and obligations to provide federal financial assistance to the States, and [federal agencies] shall not impede the States’ access to such awards and obligations, except on the basis of the applicable authorizing statutes, regulations, and terms.

R.I. Order at 11. As the R.I. Order holds, the attempted rescissions and delays of the OMB Directive do not remove these obligations. *Id.* at 10-11.

The R.I. Order also prohibits federal agencies from blocking or delaying federal payments under the direction of *other* memoranda, orders, or directives that are not the (now rescinded) OMB Directive, thereby preventing circumvention of the Court's Order. This requirement of the R.I. Order applies to every "agency supervised, administered, or controlled by any Defendant," which includes all agencies under the oversight and administration of the President. *Id.* at 12. Therefore, *every* federal agency under the President's purview must comply with the R.I. Order.

And, as you know, a similar temporary restraining order was entered by the District Court for the District of Columbia shortly thereafter ("D.C. Order"). *National Council of Nonprofits, et al. v. OMB, et al.*, Case 1:25-cv-00239-LLA. The D.C. Order stated that the federal government was:

. . . . enjoined from implementing, giving effect to, or reinstating under a different name the directives in OMB Memorandum M-25-13 with respect to the disbursement of Federal funds under all open awards[.]

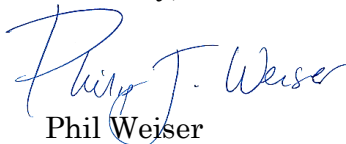
D.C. Order at 29.

Under the temporary restraining orders entered by the Rhode Island and D.C. District Courts, further funding pauses by federal agencies are prohibited until the courts can later act, unless a federal agency acts to do so under a grant program's applicable laws.

While these orders have been in effect, however, the Colorado Department of Law has received reports that some Colorado agencies and nonprofit organizations continue to experience challenges with disbursement of federal funds or have received messages from federal agencies indicating continued funding pauses. Such actions are not in compliance with the court orders entered by the Rhode Island and D.C. district courts. Should any Colorado nonprofit organization receive such a communication that is noncompliant with the courts' orders, I would be grateful if you or the organization's staff would alert my office.

You may provide such information to or direct any questions from your members to Kurtis Morrison, Deputy Attorney General, at kurtis.morrison@coag.gov. Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Phil Weiser". The signature is written in a cursive style with a large initial "P".

Phil Weiser
Attorney General