



---

**Dear colleagues and partners,**

We are sharing this resource guide at what is clearly an existential moment for our sector. In this political climate, we can no longer afford for nonprofits to operate in silos or as quiet charities. The persistent policy and political attacks on the nonprofit sector and the constant crisis-response mode hamper its ability to carry out mission, vision, and values for the benefit of a more caring and inclusive Southern California.

This moment calls for more than concern. It demands collective response and strategic defense. ForwardTogether is more than a convening — it is a movement. It is about protecting the people behind the work, defending the values that drive us, and building the power we need to respond together.

To help you meet this moment, we have assembled resources to equip your boards, staff, and community with knowledge, clarity, and practical tools.

Use this resource guide to educate your teams, align your leadership, respond to intimidation with facts, and reaffirm your commitment to care, inclusion, and advocacy. This is not an issue any one organization can shoulder alone. Every nonprofit committed to equity, service, and justice has a role to play. United, we protected millions during a global pandemic. United, we can meet this moment with courage, with care, and with each other.

In solidarity,

**The Center for Nonprofit Management**

---

## Table of Contents\*

**\*If you do not see a bookmarks panel to navigate this document, please open in Adobe Acrobat**

### Meeting the Moment Messaging

#### Nonprofit Resilience

- Crisis Response Toolkit
- Hardening the Target: Nonprofits under Fire
- Protecting Civic Space: A Primer
- The New McCarthyism - Preemptive Obedience & the Threat to Nonprofits
- Attacks on Nonprofits - How to Prepare
- A Sector in Crisis: How U.S. Nonprofits and Foundations Are Responding to Threats
- Los Angeles' Nonprofit Sector in 2025
- Nonprofit Finance Fundamentals

#### Understanding Federal Actions

- The Ripple Effect of Federal Actions
- Analysis of the 2025 Tax Bill
- The Big, Ugly Bill: What H.R. 1 Means for Nonprofits
- Myth v. Reality: Executive Authority
- Executive Orders Affecting Charitable Nonprofits
- Summary of 2025 Executive Orders Addressing Diversity, Equity and Inclusion

#### Navigation of Diversity, Equity, and Inclusion

- Conducting and Funding Race-Conscious Activities
- Diversity, Equity and Inclusion Messaging Guide
- FAQs on Responding to Recent DEI Executive Orders
- Investing in Racial Equity through Charitable Grants and Services

#### Disaster Response and Long Term Recovery Groups/Committees (LTRG/C)

- LTRG Overview
- LTRG Unmet Needs, Collaboration, and Fundraising
- LTRG Unmet Needs Case Presentation Tool
- LTRG Financial Management and Grant Writing
- LTRG Logic Model
- LTRG Mission Statement Template
- LTRC Core Functions
- National Disaster Recovery Framework
- A Primer: Federal Changes to Disaster Resilience in California

#### Public Service Loan Forgiveness (PSLF)

- Restoring PSLF
- PSLF Proposed Rules
- PSLF Proposed Rules Press Release

#### Additional Resources and Webinar Recordings





Center *for*  
*Nonprofit*  
Management

# **Meeting the Moment:** Messaging for Nonprofit Leaders

**This is not a moment of uncertainty. It is a moment of clarity.** The nonprofit sector's future and its role as the bedrock of civil society, is being tested.

---

## Core Narrative

Care is not a soft response. It is a strategic, collective defense.

When our sector is targeted, our response must be unified. When inclusion is attacked, we must reaffirm our commitment to belonging, dignity, and the American Dream. When philanthropic resources are threatened, we must protect the infrastructure that sustains communities.

**On Legal Authority:** The administration cannot order the IRS to revoke tax-exempt status without due process. We will not be intimidated by threats that exceed lawful authority.

## Summary of Legal Protections for Nonprofits

- **Tax-Exempt Status:**  
The President cannot unilaterally revoke a nonprofit's 501(c)(3) status. Federal law requires due process, notice, and the opportunity to appeal. Threats to revoke tax exemption without this process are mostly intimidation tactics.
- **Advocacy Rights:**  
Nonprofits are legally allowed to engage in nonpartisan advocacy on mission-related issues. Only endorsing or opposing political candidates is prohibited. Speaking up about funding, inclusion, and equity is fully protected.
- **DEI Programs:**  
Diversity, equity, and inclusion work remains legal. There is no law making DEI activities a reason to lose tax status, and current executive orders are being challenged in court.

**Bottom Line:** These protections are clear. We will not abandon our mission, values, or communities out of fear.

# Messaging for Internal Audiences

## For Boards

### Board Talking Points

- Our mission is only possible when the sector itself remains strong and free from intimidation.
- These challenges are not peripheral; they go to the heart of our ability to serve.
- Our role as board members is to lead with clarity and conviction, demonstrating that nonprofit organizations can and will respond strategically.
- Upholding diversity, equity, and inclusion is both a moral and legal imperative. It is central to our credibility.

### Suggested Board Commitment Language

“We affirm that care for our staff, our partners, and our communities is strategic and essential. We will stand together to defend the nonprofit sector’s role in advancing dignity, opportunity, and justice.”

## For Staff

### Internal Staff Messaging

- The recent waves of intimidation and policy threats are designed to create fear and exhaustion.
- You are not alone in feeling the strain, and you are not alone in responding.
- Care for each other and our communities is a form of resistance.
- Our commitment to inclusion and belonging remains unchanged.
- We have legal and operational tools to protect our work and our people.

### Sample Staff Statement

“We are aware of the challenges facing nonprofits across California. We want you to know our leadership is fully engaged in protecting our mission, supporting your work, and sustaining our culture of belonging and respect.”

### Staff Key Messages

Your safety, wellbeing, and dignity matter.

Collective action across nonprofits is underway. We are not isolated.

# Messaging for External Audiences

These messages are appropriate for funders, public statements, community allies, and social channels.

## External Narrative

- Nonprofits are the backbone of civil society.
- Care, belonging, and solidarity are the foundation of resilient communities.
- We will not allow intimidation to dictate our values or our impact.

## External Statements

“This is not a moment for caution or retreat. We stand united with partners across California to protect the nonprofit sector as an engine of dignity, belonging, and opportunity.”

“When inclusion is threatened, our commitment is stronger.”

“Attempts to silence or dismantle the nonprofit sector are attempts to weaken democracy itself.”

## References:

National Council of Nonprofits. (2025, May 22). Initial analysis of the 2025 tax bill and its impact on charitable nonprofits. National Council of Nonprofits. <https://www.councilofnonprofits.org>

Public Counsel. (2025, March 3). FAQs on responding to recent DEI executive orders. Public Counsel. <https://publiccounsel.org>

Hart Research, Bellwether Research and Consulting, & Raben. (2024). Diversity, equity and inclusion messaging guide. Hart Research Associates. <https://hartresearch.com>

National Council of Nonprofits. (2025, April 21). Myth v. reality: Executive branch lacks authority to target nonprofit organizations. National Council of Nonprofits. <https://www.councilofnonprofits.org>



# Think Like a Business— Act Like a Movement

Social Sector-Informed Strategies to  
Sustain Organizations and Missions



From natural disasters to policy threats, nonprofits are on the frontlines of multiple crises impacting our communities. This “toolkit” was developed by nonprofits, for nonprofits, to navigate the impact of recent disruptions, such as the 2025 Los Angeles fires, executive orders, changes in federal funding, as well as future disruptions. Learn how other nonprofits are building sustainability in turbulent times through proven best practices and identify common themes that can inform future strategies.



# COMMUNITY IMPACT AND PROGRAMS

Tactics to make progress towards  
your mission while remaining  
adaptable.



# Potential Strategies

**Embrace pivoting and alternative opportunities to serve your community—every decision should connect you back to your organization’s purpose.**

Remember to always keep the community’s interests front-and-center.



**Remember the importance of community and collaboration.**



Talk to each other. In times of crisis, we tend to go into a scarcity mindset and forget how powerful we are as a community of practice.



Introduce partners to strategically aligned funders.

**Gather data that affirms your mission and highlights the continued need for investment in your community.**



**Community Leadership.**

Convene partners.

Give voice to the community.

Provide trusted info/education.



**Power of Knowledge.**

Use data to exert influence.

Demonstrate understanding of community needs.



**Systems Change.**

Inform funders.

Reduce unnecessary reporting practices.

**Consider strengthening the program/service elements that your organization is best at.** Double-down on your defined lane. Be known for it. This allows organizations to work together and avoid duplicative work across multiple organizations.



## Think creatively about partnerships and opportunities for collaboration.



- Joint service delivery – pool resources and staff capacity to serve the same community and/or deliver the same type of programming.
- Joint funding/fundraising strategies – leverage the attractiveness of coordinated community efforts to reduce competition for resources and increase the chances of the work/community being supported.
- Coordinated advocacy and information sharing – align voices from your community to gain the attention of philanthropy and local government.
- It's essential for organizations to maintain clarity in their roles and responsibilities, while actively engaging in cross-sector collaboration to maximize impact.
- Encourage funders to take the lead role in building inter-organizational relationships to create trust, identify unknown synergies across their grantees, and alleviate some of the administrative burdens of organizations.

**Create coalitions to address certain policy issues. This helps elected officials sort and prioritize incoming communication.**



**Build better relationships with local and state government officials.**



Have deeper conversations about their needs and your work.



Assist officials with solving complicated community issues – provide them with apolitical solutions.



Utilize community convenings and collective voice when it feels too vulnerable for your organization to be front facing with government.



Communicate with them in meetings, not through social media.



Build rapport with their aides.



Don't call them out – call them in.



# **ORGANIZATION AND OPERATIONS**

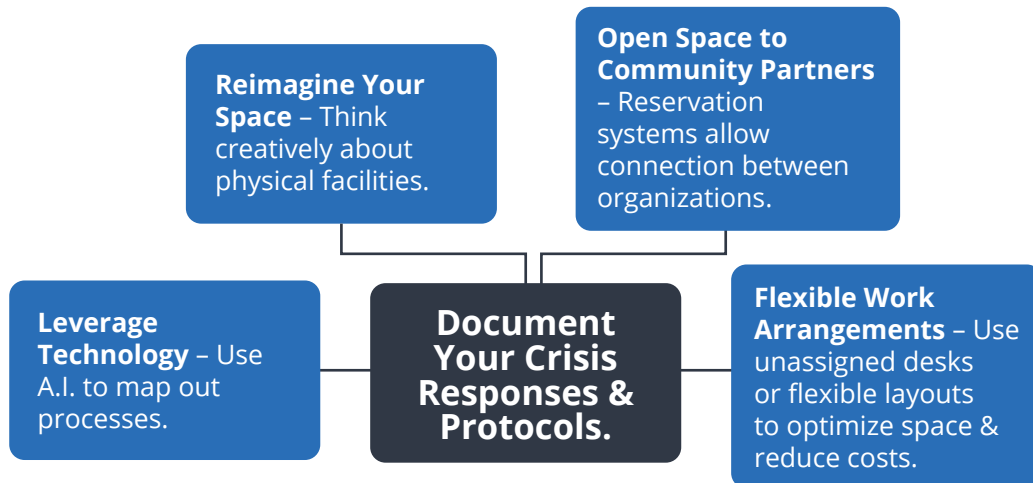
**Preparations for multiple  
scenarios and making decisions  
in the face of uncertainty.**



# Potential Strategies

**Document your crisis responses and protocols so that you can refer back to resources and strategies for the next crisis.**

## Maximizing Your Resources During a Crisis



**Leverage board members' expertise, retain general counsel, or seek pro bono counsel** to stay legally informed and prepared, and to understand implications for staff and operations.

## Maintain clear and consistent communication with your staff.

So everyone understands the proper protocols and messaging for handling any uncertainties in day-to-day operations. Keep middle managers well informed so they can implement changes effectively and share on-the-ground feedback to improve strategy.



## Be prepared!

Work with your team and board to [scenario plan related to budget and finances](#).



## Do not do it on your own—do it with others! Reach out for help and collaboration.

Assign lead roles to ensure accountability and bandwidth to address all that is happening.



**Be willing to be vulnerable to obtain partnerships. Have difficult conversations upfront.** Be transparent about your organizational finances to ensure proposed strategies and partnerships can work



Know your strengths and challenges.



Be willing to share resources.

**Understand the impacts and implications of actions at the state and federal government levels**—consider hiring a policy liaison, solely or collaboratively, to better understand what is going on.

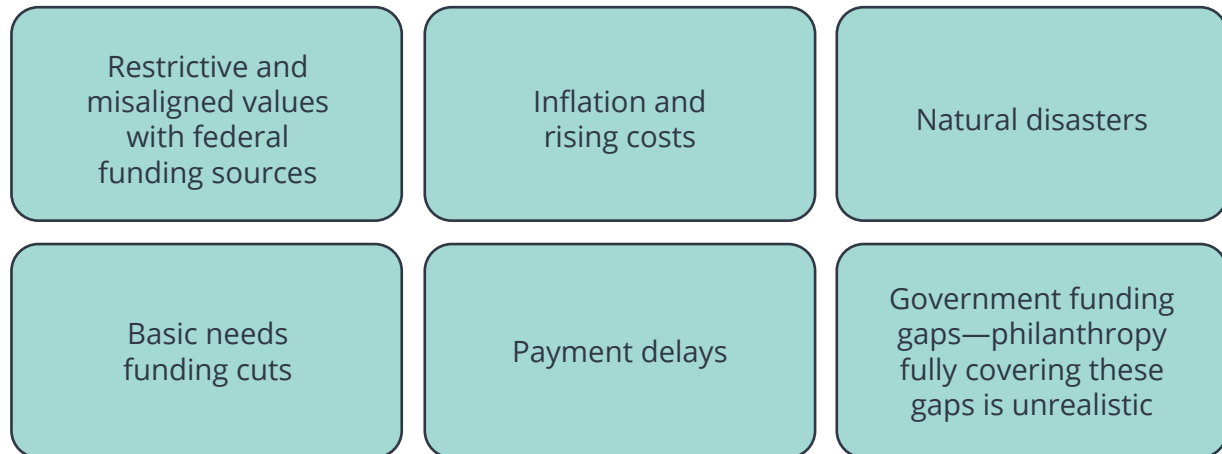


# **FINANCE AND FUNDING**

**Identification of your biggest risks and vulnerabilities to guide both cost-cutting and new fundraising as remedies.**



# Examples of Current Risks and Vulnerabilities



## Potential Strategies

Understand your **budget outlook** and potential **shifts in funding** or revenue availability to inform decision-making.



**Scenario plan for the best and worst cases. Determine how your organization can pivot.**



**Ask yourself the following questions:**

- What are our key sources of revenue?
- Which funding sources are likely to change? Are changes anticipated to be minimal, moderate, or severe?
- Is our mission and/or programming currently being politicized? If so, how might they be at risk?
- If revenue dips, what financial reserves can we draw on to sustain operations?

**Share your needs with funders to maintain services**—funders are aware of and understand the shared context, and they may adjust grant timelines or reporting requirements, or even provide additional resources or connections.



**Focus your fundraising efforts on funding sources that best align with your impact goals and mission.**



Avoid seeking to raise money everywhere, spreading yourself too thin, and/or allowing for mission creep.



Identify categories of funding that are the best “fit” with your strategy and focus fundraising efforts there.

**Think creatively about partnerships and opportunities for collaboration.**

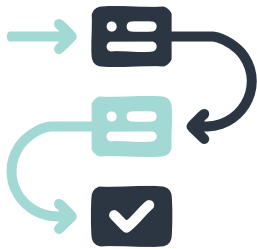


- Joint service delivery; joint funding/fundraising; coordinated advocacy; and coalition-based hiring.
- As funders are aware of common challenges, it is often more attractive to present collaborative funding opportunities rather than operating in silos.

**Advocate and get involved in efforts regarding fair and timely reimbursement structures from government funding sources.**



**Analyze potential cost savings before reducing services or using reserve funds.**



Audit and streamline operations and vendors.



Explore strategies to further streamline functions such as HR, payroll, etc.



Take time to investigate current costs and identify cheaper alternatives.

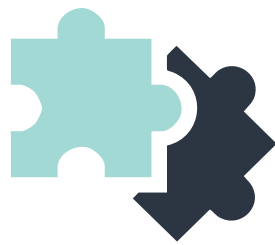
## Look into income generating opportunities.



Nonprofits are permitted to create Social Enterprises to make additional revenue.

- A social enterprise is an activity of a nonprofit that employs entrepreneurial, market-driven strategies for earned income in support of its mission.

## Dedicate more time and/or funding for risk management and infrastructure planning.



Set strategies for large, sudden changes ahead of time.



Structure your organization and finances intentionally around the likelihood of these changes occurring.



# Additional Resources

- [Radical Collaboration: How to Create and Make the Most of Inter-organizational Arrangements – NonprofitGPS](#)
- [StrongNonprofits Toolkit - Governance and Strategy | Wallace Foundation](#)
- [Get Help | Public Counsel](#)
- [StrongNonprofits Toolkit - Financial Management | Wallace Foundation](#)
- [StrongNonprofits Toolkit - Budgeting | Wallace Foundation](#)
- [NPGPS Action Research: Dynamics and Trends in the Nonprofit Economy – NonprofitGPS](#)
- [StrongNonprofits Toolkit - Operations | Wallace Foundation](#)



## HARDENING THE TARGET: NONPROFITS UNDER FIRE

*February 2025*

We have seen a recent uptick in requests from nonprofit organizations and their funders asking what they can do to be prepared for heightened scrutiny or even attacks due to taking positions at odds with policies of the government in power. Here is a summary of our thoughts on being ready. The discussion focuses on charities with tax exemption under Section 501(c)(3) of the Internal Revenue Code, although much of the advice would apply to other types of nonprofit and tax-exempt organizations.

***Legal compliance.*** Be ready for close scrutiny by federal agencies such as the Internal Revenue Service (“IRS”)<sup>1</sup>, state charity regulators (often the state Attorney General), or Congress, by making sure your organization is generally on a solid legal footing. Getting a legal compliance audit may be helpful to assess any areas of weakness. We can review any subset of the following, depending on your areas of greatest concern, and provide internal board or staff briefings and trainings as needed:

- Filings with federal, state, and local regulatory agencies, as applicable (typically at least the IRS and the state-level taxing agency, Secretary of State, and Attorney General of the state of incorporation)
- Governance (review of Articles of Incorporation, Bylaws, and corporate minute books; compliance with governing documents and best practices; membership issues)
- Corporate policies (including conflicts of interest, document retention, whistleblowers, etc.)
- Solicitations (compliance with registration requirements, terms of solicitations, donor acknowledgments and disclosures, restricted fund accounting as needed)
- Financial practices and controls, and audit letters, if any
- Insurance policies appropriate to activities
- Compliance with tax-exempt status requirements and public support tests (if applicable)

---

<sup>1</sup> While the IRS continues to be the primary federal agency overseeing charities, Executive Orders (EOs) issued by the President early in 2025 request all federal agencies to consider targets for investigation based on “illegal” DEI activities or policies, including specifically large nonprofits. The IRS typically audits charities for compliance with tax law; it is currently unclear what form enforcement of the EOs may take, or who might conduct it.

Hardening the Target: Nonprofits under Fire  
February 2025  
Page 2

- Compliance with legislative lobbying limits and prohibition on intervening in candidate elections for public office
- Risks associated with evolving interpretations of the legality of race-conscious activities
- Compliance with the private inurement prohibition, and executive compensation practices
- Unrelated business activities and taxes
- Appropriate legal separation from, and transactions with, and documentation for, any affiliates or fiscally sponsored projects
- Employment law compliance (hiring practices, personnel policy, classification of employees versus independent contractors, payroll tax issues)
- Volunteer management practices (including recruitment and screening procedures, supervision, and waivers/releases)

If your organization is contacted by the IRS or a state charity regulator about an audit, or another federal agency about an investigation, we recommend retaining a knowledgeable attorney before any substantive communications with the government occur, if possible. Generally, audit responses should be in writing, and make sure to keep complete and exact copies of every document provided.

***Physical security.*** Muslim and Jewish organizations are on the cutting edge of increased security needs for offices, facilities, events, and even individual leadership, but such concerns are not new. Planned Parenthood, for example, has been dealing with these problems for years. Consider whether your profile and activities merit greater attention to security than in the past: build relationships with local police (an officer may be able to give you a walk-through security assessment); use a P.O. box instead of your physical address; lock doors and windows at night and on weekends; control access during working hours; install/set alarm systems; have an emergency evacuation plan, and know who's in charge in an emergency; apply to FEMA's Nonprofit Security Grant Program if you're eligible. At the same time, you may not want to create a fortress: your organization will have to decide how much is enough for you.

***Cyber security.*** Build basic security measures into websites and donor and client databases: install anti-virus software, and back up essential data regularly off site. Some organizations may want to implement heightened verification on websites, such as two-factor identification where users have a password and must also receive a code each time they access an account. As with physical security, there's a trade-off between security and ease of use, so you choose your position on the spectrum.



Don't forget your staff when it comes to cyber security. Depending on the types of attacks favored by your likely opponents, consider steps you can take to make it harder for bad actors to target them for phishing, doxing, or other on-line and social media harassment. For example, you may want to scrub your website for unintentional or unnecessary disclosure of addresses, phone numbers, contact information, and even pictures of your volunteers, staff, and leadership.

***Stranger (and other) danger.*** More than one nonprofit has been caught by being too trusting of strangers, or by being undisciplined when among apparent friends. Be alert for signs that you've been the target of opposition research by private actors; beware sting or entrapment operations where someone poses as a reporter or a client. Don't assume that someone new to you is who they say they are: make sure you know before you allow them into your confidence. This includes new staff hires. And, unfortunately, this can even apply to coalition partners or others you have some reason to trust. Be cautious saying anything that could be recorded and taken out of context, or leaked, that reflects badly on your organization. Staff should strive always to represent the organization in the best possible light, even in "closed" environments, and should assume that anything they say or do could become public. Consider how email addresses are added to your lists; there are many examples of opponents signing up in order to collect evidence for attacks, so the safest approach is to assume all emails you send to a list are public.

***Lobbying.*** If you are a public charity exempt under Section 501(c)(3), you may engage in a significant amount of legislative lobbying, provided you know the rules and do not exceed permissible limits (but if you're a private foundation, your lobbying limit is zero). Opponents may spread misinformation about what the law allows, so don't be scared off — your voice may be more crucial now than ever to represent your constituents. Instead, have someone in your organization learn the rules, and track and report your lobbying properly. Consider making the election to have your lobbying expenditures governed by Section 501(h). We have lots of useful information available, and can advise if you need it. In addition to tax law rules arising from your 501(c)(3) status, certain lobbying activities require registration and reporting to federal, state, or local agencies; consult a political lawyer for more information.

***Ballot measures.*** With the current political situation at the federal level, hope for progress may rest at the state and local levels, and ballot measures may be a big part of that. Ballot measures are a form of legislation, and you can weigh in on ballot measures within your lobbying limits (see preceding item). If you raise money for ballot measure work, or give money to a ballot measure committee, or coordinate your activities with a ballot measure committee, you may trigger extensive reporting obligations under state or local campaign finance laws and therefore may require specialized campaign finance counsel. Also, ballot measure campaigns can be expensive, so a charity considering a major role in one must consider the impact on the charity's lobbying limit. It often makes sense to establish a separate non-charity for this purpose, particularly for statewide measures.

***Electioneering.*** While you're speaking out on your issues, be careful to avoid actions or statements that could be construed as supporting or opposing candidates for public office. Nonpartisan issues advocacy, voter registration, and get-out-the-vote campaigns are fine, but the nonpartisan line can sometimes be hard to draw (and we have a separate memoranda to help you locate it, or we can advise on specific situations). Remember that most politicians are treated as candidates all the time under IRS rules, so stick to critiques of specific policies and urging specific actions, rather than attacking character or commenting on overall fitness for office. Be especially careful if your communication refers, directly or indirectly, to future elections or voting.

***Race-conscious activities.*** Activities designed to support people of a specific race have long been accepted as powerful legal weapons in the fight to remedy the harmful effects of race-based discrimination and disenfranchisement. However, charities and their funders working to promote racial justice, eliminate race-based disparities, and build power in communities of color, may have concerns about their legal risks in the wake of lawsuits (specifically, the U.S. Supreme Court's June 2023 decision in the Students for Fair Admissions case ("SFFA") and others that followed), Executive Orders targetting nonprofits with DEI policies or activities, and constant publicity of new challenges to race-conscious programs. Despite the perception of increasing risk, the vast majority of race-conscious programs that charities conduct and that their funders support remain legal. Even in this evolving legal landscape, charities and funders can, for now, continue to advance racial equity. We have developed an Assessment Tool that can help you evaluate real and perceived risk associated with race-conscious activities and make informed decisions about when, whether, and how to mitigate that risk.

***Insurance and indemnification.*** Review the coverage you have with a knowledgeable insurance agent, and consider whether it's adequate in light of any changes in your risk profiles. Most organizations need general liability insurance, directors' and officers' liability insurance, and employment practices coverage. Other types of insurance depend on your operations, such as auto insurance, volunteer coverage, and special events riders. Some organizations should consider cyber liability coverage for hacking, virus transmission, and disclosure of third-party confidential information.

Your directors, officers, and staff may also have questions about their personal liability exposure due to their association with your organization. This may include both the risk of being held liable for the organization's acts, and concerns about being called to testify in Congressional hearings, agency inquiries, or other government investigations. Directors' and officers' (D&O) insurance typically covers individuals acting as agents on behalf of an organization. Some policies cover government inquires, but many don't. Those that do may have strict limits on when the organization is covered and when individuals are covered. Consult with your insurance provider before these issues arise for more information.

In addition to insurance, state corporate laws and your organization's Bylaws typically cover indemnification of corporate agents, including directors, officers, employees, and

sometimes volunteers, if they are sued or otherwise exposed to claims due to corporate action. These rules dictate when the organization is required to protect (i.e., indemnify) its agents, when it is permitted to, and when it may not. Note that your obligation to indemnify is only protective to the extent you have the resources to fulfill the obligation; insurance often covers some indemnification obligations, but is unlikely to cover all.

***Social media.*** Social media is powerful, but also unpredictable and changes fast. Control your social media accounts, and review your policies on how employees use personal accounts for work and represent their affiliation with you when speaking personally. If you don't have policies, we can provide guidance on developing them. Monitor social media for early warning of any lies about or attacks on your organization or your constituencies. And don't "feed the trolls." Depending on your organization's activities, it may be worth hiring a media consultant or PR firm to monitor social media mentions of your organization and its key personnel. In extreme circumstance, it may be prudent to explore retaining cybersecurity experts who can monitor less visible activity and the "dark web" for threats from certain quarters sooner.

***Staff and Board training.*** Great organizational policies and procedures are no use unless your people know about them and follow them. Create a culture of legal compliance and crisis preparedness from the top: show that you take these concerns seriously by taking the time to develop the policies and train people to follow them, with refreshers as needed. Directors should embrace compliance and preparedness for the organization as part of their fiduciary duties. Staff should understand that protecting the organization from risk is a job performance obligation; your organization will typically be held responsible for actions of employees done in the scope of their employment. And every organization should have policies to clearly distinguish what employees do personally from what is in the scope of their employment, to avoid personal activities inconsistent with the organization's exemption being attributed to it.

***Donors.*** Consider making your donors aware of any brewing controversy — large individual donors as well as foundations and institutional funders. If your donors do get blindsided, consider having a plan for bringing them up to speed quickly. And if you have new funding needs tied to changes in the political environment for your work, they may be able to help. Also consider whether and how to protect donor confidentiality. (If you rely on federal government grants for funding, maintain your relationship with the funding agency, but be aware that it operates within the Executive Branch, ultimately subject to Congressional appropriations and directives from the President.)

***Crisis planning.*** Think about your organization's worst-case scenarios and where, based on your specific activities and plans, you're vulnerable. Then consider whether you need a generic crisis plan, or plans for specific contingencies — you wouldn't respond the same way to receiving a subpoena from Congressional and a bomb threat. The crisis could involve your organization alone, specific constituencies, or types of programs.

- *Crisis consultants.* Depending on your risk profile, you may want to identify in advance public relations or communication strategy firms experienced in crisis communications, and lawyers with appropriate expertise, so that you're not scrambling if a crisis arises.
- *Crisis communications.* Whether you hire a consultant or not, try to anticipate and be prepared. For example, consider drafting social media responses to possible Presidential tweets or posts on Truth Social, or setting up phone trees to expedite communications with major donors. Consider what tone you want to take in response to an attack; have fact sheets ready on your organization and your issues; decide who will speak for the organization on what topics, and make sure everyone in the organization knows.

***Relationships with legislators.*** At every level of government, make sure your legislators know who you are, what you do, and how you help their constituents or improve the world. It's much harder to develop credibility once you're the subject of an attack. And these relationships will be useful to advance your mission anyway. (Don't forget to track and report any legislative lobbying, though, and avoid electioneering — see above.) If your organization becomes the target of a Congressional or agency investigation, or receives a subpoena to appear before Congress, specialized legal counsel may be needed, and we are happy to provide referrals.

***Relationships with the media.*** As with legislators, having a pre-existing relationship with reporters who cover your work is a good precaution, and can also be useful to advance your mission. Contact them when you have good news!

***Relationships with allies.*** Share some of the burden (in terms of effort and even potentially financial) of preparing for the new political environment by networking with other organizations with similar concerns. Join your local, state, and national nonprofit trade associations.

***Antiterrorism.*** If you have foreign activities or expenditures, or if you support other organizations that do, or if you support organizations that could be associated with domestic terrorism, you should be aware of the antiterrorism financing rules under federal law, and take appropriate steps to manage that risk. We have a separate memorandum on those rules, and information on recent legislative proposals that might dangerously expand their reach.

***Illegal activities.*** If you anticipate engaging in activities that may be illegal under state or federal law (such as trespassing in corporate headquarters, providing assistance to undocumented immigrants, or abortion services<sup>2</sup>), or that create a risk of illegal activities occurring in conjunction with your activity (such as protest marches, rallies, or sit-ins), you

---

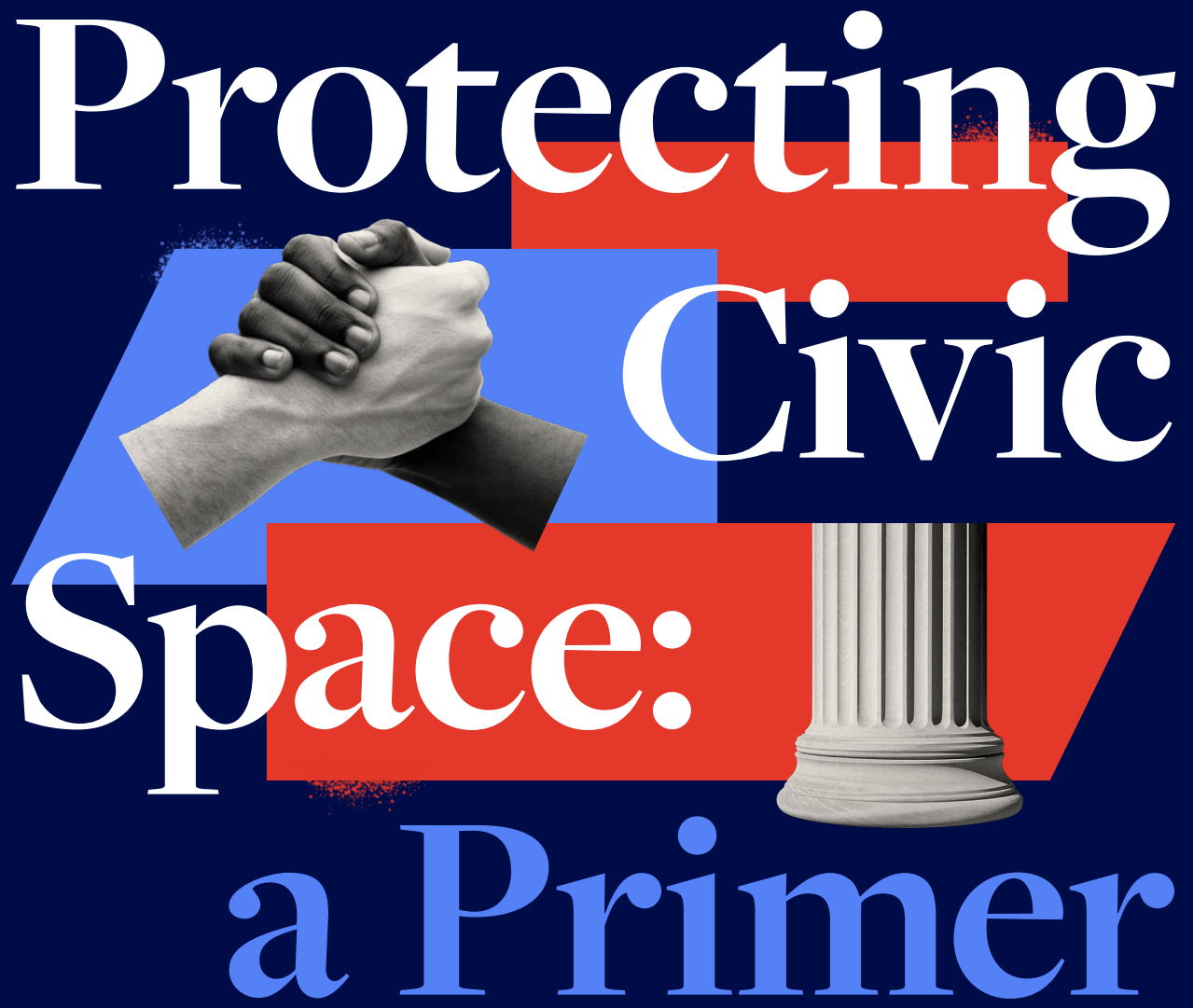
<sup>2</sup> The definition of what constitutes illegal activity is also subject to change, as the EOs issued in early 2025 attempt to do with DEI activities and policies.

should understand the risks, and take steps to protect your tax-exempt status. Also, some states have adopted legislation targeting protestors, and in some cases impose sanctions on organizations that “conspire” with the protestors to cause damage. These rules are changing, so become informed before your organization gets involved in a protest or similar action, especially in a new jurisdiction. We can provide basic guidance; specialized assistance and preparations may be needed.

***Financial preparation.*** Budgeting for the cost of defending your organization and its representatives is an important planning step that many organizations neglect. Nearly every suggestion above carries a cost. If you’re targeted in a government investigation or a subpoenaed, responding -- retaining the right counsel, compiling documents, drafting written responses, and even preparing witnesses for oral testimony -- can be expensive, even if the organization is fully vindicated. Plan ahead and budget for expenses you can anticipate and have a contingency plan if the costs you encounter exceed what you are able to budget.

If you rely on government contracts or grants for funding, be prepared for funds to be reduced or cut-off, potentially with little or no warning. This could result from the issuance of Executive Orders, or Congress slashing federal expenditures to pay for continuing or expanding tax cuts.

# Protecting Civic Space: a Primer

The graphic design features a central composition of a handshake and a classical column. The handshake, with one hand being Black and the other white, is positioned on the left side, set against a blue parallelogram background. To the right of the handshake is a white classical column. The background is a dark blue field with large, overlapping red and blue geometric shapes that frame the central elements. The text 'Protecting Civic Space: a Primer' is overlaid on this design, with 'Protecting' and 'Civic' in white, 'Space:' in white, and 'a Primer' in blue.

How to prepare your organization  
for politicized government investigations

SEPTEMBER 2024



This guide is not meant to, and does not, offer legal advice.  
Any organization or individual who receives a government  
inquiry should consult with an attorney.

# Contents

---

|                                                                          |           |
|--------------------------------------------------------------------------|-----------|
| <b>Introduction: the Threat to Civic Space</b>                           | <b>2</b>  |
| Why government investigations are a preferred tool for authoritarians    |           |
| <hr/>                                                                    |           |
| <b>Investigations Quick Guide</b>                                        | <b>6</b>  |
| An at-a-glance view of potential consequences and precautionary steps    |           |
| <hr/>                                                                    |           |
| <b>Types of Government Investigations</b>                                | <b>8</b>  |
| How different types of federal and state entities conduct investigations |           |
| <hr/>                                                                    |           |
| <b>Key Investigative Tools</b>                                           | <b>24</b> |
| The methods investigators use and what actions organizations can take    |           |
| <hr/>                                                                    |           |
| <b>Case Studies: Three Real Investigations</b>                           | <b>26</b> |
| Actual examples of how politicized investigations play out               |           |
| <hr/>                                                                    |           |
| <b>How to Prepare Your Organization</b>                                  | <b>34</b> |
| Eleven strategies to ready organizations for potential scrutiny          |           |
| <hr/>                                                                    |           |
| <b>Conclusion</b>                                                        | <b>39</b> |
| Resisting a looming threat                                               |           |

# Introduction: the Threat to Civic Space

This primer has two goals. First, it aims to orient civil society organizations to the different types of vexatious or retributive investigations that state and federal government actors may undertake. Second, it is intended to help organizations identify concrete actions they can take now to prepare for and mitigate these threats.

**IN THE PAST, AUTHORITARIAN-MINDED** leaders bent on upending democratic checks and balances often came to power forcefully and swiftly, including by means of a military coup d'état. But threats to democracy have evolved over recent decades.

Today, democracies more often die gradually, as institutional, legal, and political constraints are chipped away, one by one. This has happened, or is happening, in places like Russia, Hungary, India, Venezuela, Turkey — and the United States. By using “salami tactics,” slicing away at democracy one sliver at a time, modern authoritarians cement themselves in power incrementally and gradually.

Democratic decline is often exacerbated by a tightening of the space in which civil society organizations operate. These organizations have the ability to serve as vocal counterpoints to the autocratic faction, particularly when they operate as part of a broad and diverse pro-democracy coalition. Civil society organizations play critical roles in identifying and checking abuses of power, keeping the media focused on authoritarian threats, and holding bad actors accountable. They also serve as an essential support system, sustaining the health of the pro-democracy movement and strengthening critical democratic institutions like elections offices and courts.

As autocratic factions within a country grow more powerful, they often seek to undermine the civil society organizations they see as a threat. This pattern has been observed in democracies around the world. Organizations abroad have faced regulatory harassment, invasive audits, online harassment, threats of violence, and vexatious government investigations.

And now American civil society organizations — including those doing a wide range of work and serving diverse constituencies — are experiencing their own versions of these attacks. Texas Attorney General Ken Paxton has tried to shut down Annunciation House, a Catholic migrant shelter in El Paso, and is widening investigations into other nonprofits serving migrants. Senator Ted Cruz has begun investigating “radical left” climate and energy nonprofits such as the Environmental Law Institute and Rewiring America. And Senator Josh Hawley has initiated inquiries related to whether funders with 501(c)(3) status are “illegally” supporting university campus protests.

Regardless of the ultimate outcome, investigations like these have ramifications. They may impugn an organization’s reputation. They may monopolize an organization’s time and resources to the detriment of its core work. They may reduce staff morale.

In some cases, these ramifications — more than the outcome of the investigation itself — may be the point.

Investigations can also have a chilling effect on the field at large. One organization might be targeted in part to send a message to others that the threat of continuing their work is too great. Investigations may incentivize other organizations to distance themselves from the target in an attempt at self-preservation. Organizations may also engage in “anticipatory obedience” — taking steps to comply with the anticipated demands of an autocratic regime by preemptively ceasing lawful, mission-driven activities that could make an organization a potential target. They fall in line or stop opposing the autocrat out of fear of consequences even before they themselves are targeted. That leaves fewer people and organizations standing up to challenge the autocrat.

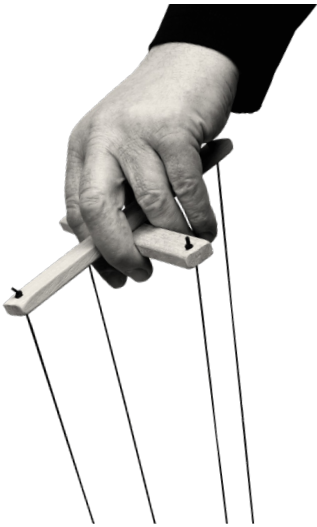
This primer has two goals:

First, it aims to orient civil society organizations to the different types of vexatious or retributive investigations that state and federal government actors may undertake. This includes descriptions on pages 8–25 of the investigative capabilities of key government entities at the federal and state level, as well as three case studies on pages 26–33 to illustrate how these investigations play out in real life.

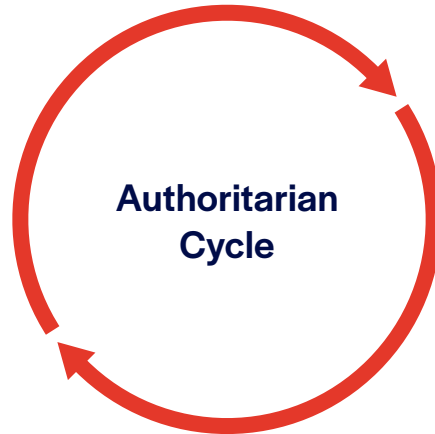
Second, it is intended to help organizations identify concrete actions they can take now to prepare for and mitigate these threats. Eleven strategies can be found on pages 34–38, covering a range of governance, communications, and security measures that can help ensure organizations are as ready as possible in the event of an inquiry.

# The chilling effect of politicized investigations

- 1 An autocrat uses government power to investigate and punish groups or individuals they disagree with.



- 2 A climate of fear leads to anticipatory obedience and fewer organizations operate in targeted sectors.



- 4 Government power is further consolidated, enabling even more pronounced abuses.



- 3 With reduced civil society support, institutions weaken and fail to check the autocrat's abuse of power.



# Investigations Quick Guide

## What are the consequences of being investigated?

Read more about government investigative powers on pages 8–23.

Regardless of the outcome, an investigation can have steep costs.

- ✗ Negative media attention
- ✗ Loss of funders or partners
- ✗ Staff attrition and reduced morale
- ✗ Reduced capacity for mission-focused work
- ✗ Risk of anticipatory obedience
- ✗ Diminished pro-democracy coalition

Potential penalties depend on the investigating entity.

- ✗ Financial penalties
- ✗ Loss of tax-exempt nonprofit status
- ✗ Revocation of licenses
- ✗ Other agency or state-dependent sanctions
- ✗ Frozen assets or orders to close
- ✗ Incarceration (rare cases)

## What should your organization do if it's being investigated?

Find out more about responding to inquiries on pages 24–25.

# 1

### Don't panic.

Remaining level-headed will help ensure good decision-making and avoid disrupting your core work.

# 2

### Contact a lawyer.

Lawyers bring expertise in responding to government agencies so you can stay focused on your mission.

# 3

### Make a plan.

A good response plan will prepare you and your donors to manage politicized investigations.

# How can your organization prepare for a potential investigation?

Read more on steps your organization should take on pages 34–38.

✓ **Keep calm and carry on with the mission.**

Don't let fear or panic prevent you from continuing your work.

✓ **Establish physical and cybersecurity protocols.**

Implement tools and training that will keep staff safe in an emergency.

✓ **When in doubt, contact a lawyer. (And have one ready!)**

Many law firms and legal services organizations will provide pro-bono consultations or representation.

✓ **Get honest with funders and partners.**

Let them know about the threat — they may even be able to mobilize extra resources.

✓ **Have a plan.**

Decide what to do before it happens — including how and whether you'll communicate about it.

✓ **Build broad coalitions.**

Organizations that work together within civic spaces are more successful at combating authoritarianism.

✓ **Embrace good governance.**

Always maintain strong operating and financial practices.

✓ **Assume anything in writing could be disclosed.**

Avoid language that could be a flashpoint in emails, texts, and other records.

✓ **Implement document retention policies now.**

Make sure all staff understand what to keep and for how long.

✓ **Train staff to be aware of bad-faith actors.**

Individuals posing as volunteers or potential clients may attempt to elicit or record statements out of context.

✓ **Ensure confidential information is protected.**

Handling, distribution, and storage policies should be codified and followed.

# Types of Government Investigations

As civic space begins to close, civil society organizations conducting mission-driven work that conflicts with the political or policy goals of government officials are at heightened risk of being singled out for government investigations at both the federal and state levels.

To prepare to face potential investigations, organizations need to understand the various tools government agencies have at their disposal and how to respond.

# Federal Investigations and Oversight

**THE FEDERAL EXECUTIVE BRANCH** administers and enforces the law as enacted by Congress. The executive branch encompasses three types of organizations, all of which are equipped with the authority and tools to conduct investigations:

- Fifteen executive departments led by an appointed member of the President's Cabinet, such as the Department of State and the Department of Labor
- Over 150 total executive agencies that operate under the direct authority of the president, such as the Environmental Protection Agency
- Over 50 independent federal commissions and agencies, such as the Securities and Exchange Commission



# Department of Justice

## Criminal and civil investigations

**THE DEPARTMENT OF JUSTICE (DOJ)**, headed by the Attorney General of the United States, oversees federal law enforcement as well as all criminal prosecutions and civil litigation in which the United States is a party. DOJ can investigate a range of federal civil and criminal matters, including money laundering, fraud schemes, violations of civil rights statutes, tax code violations, human trafficking, and risks to national security.

In each geographical district of the United States, a United States Attorney's Office (USAO) oversees federal investigations and prosecutions for the region. Many federal law enforcement agencies, like the Federal Bureau of Investigation and components of the Department of Homeland Security, have field offices throughout the country where they work — sometimes hand-in-hand with state and local law enforcement — to investigate criminal activity. These agencies share the information they gather with the USAO in the relevant district.

A DOJ investigation may be either civil or criminal, or a single investigation may have both criminal and civil components. As such, organizations should have a basic familiarity with the differences between civil and criminal investigations.

In a *criminal* matter, every investigation carries the possibility that an individual can be convicted of a crime and fined or sentenced to prison; an organization can also be convicted of a crime and sanctioned. In a *civil* matter, the government can enforce the laws through financial penalties or by ordering an organization to stop taking some sort of action, but there are no liberty interests at stake.

Although DOJ has not traditionally prioritized civil society organizations or other non-profits for investigation, it could. It is charged with enforcing the full spectrum of civil and criminal law, covering a broad range of conduct that could be used as a predicate to investigate a civil society organization.

Recently, for example, DOJ launched a civil investigation into a climate nonprofit for violating the Immigration and Nationality Act by posting job advertisements that deterred non-citizens from applying for open positions. That investigation led to a settlement agreement with the nonprofit in May 2024, under which it will pay a civil penalty, provide back pay, and submit to a period of compliance monitoring. Criminal investigations by DOJ into civil society organizations, on the other hand, are relatively uncommon (though certainly not unheard of). But some lawmakers have called on DOJ to change that.

# Internal Revenue Service

## Investigations into nonprofit status

**THE INTERNAL REVENUE SERVICE (IRS)** has the power to grant — and to rescind — an organization's nonprofit status. Organizations that are organized and operated exclusively for charitable purposes are eligible for tax-exempt status under section 501(c)(3) of the Internal Revenue Code, provided that they do not attempt to influence legislation as a substantial part of their activities and refrain from participating in any campaign activity for or against political candidates.

The IRS is responsible for investigating and ensuring tax-exempt organizations' compliance with the tax code. It audits organizations in two ways: (1) by sending a written request for documents; or (2) by sending agents to an organization to collect information in person. The IRS also conducts compliance checks over matters that do not rise to the level of an audit.

If the IRS determines an organization is not in compliance with the tax code, it may revoke the organization's tax-exempt status. In addition, in certain circumstances, it may refer the matter to DOJ for criminal prosecution.

# Federal Executive Branch Agencies

Investigations related to immigration, business operations, federal grants, civil rights, and more

**BEYOND THE IRS AND DOJ**, other federal agencies have the authority to conduct investigations. Although their investigative tools are similar, the specific tools and authorities available vary across federal agencies.

For example, agencies seeking to investigate an organization may request documents or interviews with the organization's representatives to gather information. Pursuant to statutory authority, some federal agencies also have the authority to issue administrative subpoenas or civil investigative demands (CIDs) if there is reason to believe that a person or entity possesses documents or other information relevant to an investigation.

The CID is a vehicle for the government to demand the production of documents, written interrogatory responses, and even sworn testimony in order to gather evidence before litigation begins. The government also uses CIDs as a way to assess whether to initiate enforcement proceedings. CIDs can be issued to organizations that are the ultimate target of a government investigation, or to others that are not the target but that may have information relevant to the investigation.

Organizations should consult with counsel before responding to any of these investigative inquiries.

Examples of federal agency investigative activity outside of DOJ and the IRS include:

## Department of Homeland Security

The Department of Homeland Security (DHS) contains several investigative components, which have broad authority to investigate potential violations of immigration law, as well as smuggling, terrorism, human and drug trafficking, fraud, and many other crimes. DHS includes U.S. Immigration and Customs Enforcement (ICE), which is authorized to arrest, detain, and remove noncitizens, and to investigate businesses and other organizations for potential immigration law violations. Homeland Security Investigations (HSI), a division within ICE, can conduct worksite raids, a particularly visible enforcement tool often used to expose undocumented employees. HSI also investigates a wide range of criminal activity, with a particular emphasis on cross-border activity.



## Department of Labor

Investigators from the U.S. Department of Labor's Wage and Hour Division may initiate investigations to observe business operations, examine payroll and other business records, interview employees, and enforce penalties as applicable for wage or overtime violations, child labor, or other violations of federal labor laws. While employers may be represented by counsel during these investigations, investigators are not required to provide advance notice of a visit and may show up unannounced.

## Treasury Department

The U.S. Treasury Department is organized into several operating bureaus and offices. The Treasury Department's largest bureau is the IRS, but there are other entities with investigative powers, including the Office of Foreign Assets Control (OFAC), the Office of Terrorist Financing and Financial Crimes, and the Office of International Affairs. The Treasury Department can investigate claims of economic abuse, fraudulent investments, and tax fraud against civil society organizations operating both domestically and internationally.

For example, in early 2006, without notice or a hearing, OFAC froze over \$1 million in assets belonging to KindHearts — a former charitable organization that provided humanitarian assistance in the United States and abroad, including to Muslim-majority countries — effectively shutting down the organization's operations. OFAC subsequently threatened to designate KindHearts as a "pecially designated global terrorist" without providing the organization with a reason or meaningful opportunity to defend itself. In 2008, the ACLU filed and won (at least in part) a lawsuit against OFAC in a federal district court in Ohio. The court also affirmed, however, that OFAC's designation of KindHearts as a "pecially designated global terrorist" did not violate the organization's due-process rights.

## USAID

The U.S. Agency for International Development (USAID) maintains an Office of Investigations and a workforce of Special Agents who investigate civil, criminal, and administrative violations related to USAID, the Millennium Challenge Corporation, the United States African Development Foundation, the Inter-American Foundation, and the U.S. Development Finance Corporation. Investigations typically focus on preventing fraud, waste, and abuse among contractors, grantees, and host-country counterparts. Agents have full law enforcement authority, including the ability to conduct surveillance and undercover operations. Many USAID grantees are civil society organizations. The agency maintains a Compliance and Fraud Prevention Pocket Guide to help agency employees and stakeholders identify potential fraud and other activities to report.

## Civil rights offices

Many federal agencies also have offices of civil rights, which have the authority to investigate possible civil rights violations at organizations they fund. The Department of Education's Office of Civil Rights, for example, enforces a number of civil rights statutes, including Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. In the wake of the Supreme Court's decision in *Students for Fair Admissions v. Harvard*, several advocacy organizations — including America First Legal and the Equal Protection Project — have filed complaints with a number of agencies, including the Department of Education's Office of Civil Rights and the Equal Employment Opportunity Commission, seeking investigatory action against universities and businesses that have Diversity, Equity and Inclusion (DEI) programs.

It is worth noting that executive branch agencies also have broad powers that go beyond formal investigative tools. The power to execute federal law and implement federal policies includes distributing federal grants, licenses, and other public resources; providing relief in disasters; partnering with the private sector to accomplish public aims; and conducting many other tasks. This power can be leveraged in a variety of ways to engage in retaliatory investigations or take other action against disfavored organizations.

Civil society organizations should take stock of the various ways their organization interacts with federal agencies and programs to assess other potential vulnerabilities to retribution or harassment.

# Congress

## Broad investigations and oversight

**ALTHOUGH THE U.S. CONSTITUTION** does not expressly authorize Congress to conduct investigations, the Supreme Court has long recognized that Congress has an inherent, constitutional prerogative to conduct investigations “in aid of its legislative function.” Because Congress’ power to legislate is expansive, Congress has broad discretion in deciding the scope and relevance of information it can request, and courts generally have interpreted this to mean that Congress can investigate virtually any topic that has a nexus to its legislative duties.

Thus, the congressional committees that carry out such investigations and inquiries have broad authority to request and, at times, to *demand* that private parties turn over documents and information, sit for a deposition, or testify at a hearing. This power is not unlimited, but there have been only a relatively small number of court cases during our country’s history challenging congressional oversight authority.

There is historical precedent for Congress abusing its authority to investigate private citizens and civil society organizations. From 1938 to 1975, the House Un-American Activities Committee investigated labor leaders, civil rights activists, academics, scientists, and government employees for having alleged or suspected Communist beliefs, notably overseeing the infamous “McCarthy hearings.”

In recent years, some members of Congress have increased their focus on oversight activity. The rise of social media and the demand for “viral” clips have led to a heightened interest in the video footage of contentious exchanges with a witness that sometimes take place during oversight hearings.

Congressional committees — not individual members — wield the oversight power of Congress, and each committee exercises that power through a chairperson. Overarching House and Senate rules govern how committees in each chamber conduct investigations and hold hearings. In addition, each committee adopts specific rules that govern its investigations and define its jurisdiction.

Congress has a variety of tools it can use to seek information from civil society organizations. The most common of these are outlined below and summarized with recommended responses on pages 24-25. Investigations may start informally, but some can escalate to more formal procedures.

## Letter inquiries and document requests

Congressional committees often send letters requesting documents or information from private parties. These easy-to-send, informal requests are typically the first tool congressional committees wield. They can help a committee put pressure on multiple parties to produce documents of interest for a particular investigation.

Illustrating how common these requests can be, during the 118th Congress, House Judiciary Committee Chairman Jim Jordan sent out hundreds of letters to companies, organizations, and individuals. The letters requested that recipients turn over internal documents and communications with other organizations, among other items.

Similarly, Senator Ted Cruz, in his capacity as Ranking Member of the Senate Commerce, Science, and Transportation Committee, sent a letter to the President of the Environmental Law Institute (ELI), a national progressive environmental organization. Senator Cruz alleged that ELI's program to educate federal judges about climate change was not ideologically neutral and requested access to broad swaths of documents, including communications, curriculum materials, and funding and spending records.

The consequences of receiving a letter inquiry or document request vary. Compliance with letter requests is voluntary, but not all letter requests are the same: Some letters, such as those from a committee chair or another influential member, come with a higher risk of escalation to a subpoena if the requests are not addressed satisfactorily. Sometimes if the receiving party does not respond to the committee's satisfaction, there will be follow-up requests via email or phone call. Such situations can lead to escalation, including additional requests and ultimately a subpoena that demands compliance.

## Interviews

Congress may also ask a witness to sit for a voluntary interview. Such interviews can take many different forms, subject to negotiation between the relevant congressional committee and the recipient of the request (or their counsel). Because informal interviews are voluntary and not subject to the same requirements as formal depositions (discussed below), parties have broader parameters to negotiate, for example, whether the interview will be in person, who will be present at the interview, and the scope of the questioning. Notably, committing perjury before Congress — even in an informal interview — is subject to prosecution.

## Subpoenas

Congressional subpoenas require heightened attention, as they are formal legal demands with detailed terms for compliance. They are issued with the implicit threat of sanctions for noncompliance, including being held in contempt of Congress.

Subpoenas are typically issued by a congressional committee that was dissatisfied with a party's response to a letter request.

Each committee's rules differ as to the formal requirements that must be met to issue a subpoena. Some committees may issue a subpoena via a unilateral decision of the committee chair, while others require a majority vote. Most House committees have now given their chairs unilateral subpoena authority, weakening the barrier to issuing them. Only one committee in the Senate has given its chair unilateral subpoena authority: the Committee on Homeland Security and Governmental Affairs' Permanent Subcommittee on Investigations.

Congress has the ability to punish parties that refuse to comply with congressional subpoenas, including by referring the party to DOJ for prosecution for criminal contempt of Congress and filing civil litigation to enforce the subpoena. Though rare, in recent years Congress has issued a number of criminal contempt referrals. Some of those even resulted in prosecutions and convictions. Congress has also filed civil lawsuits seeking subpoena enforcement.

Subpoenas may compel the production of documents or require witnesses to appear at a deposition or hearing. Longstanding practice is for parties who receive a subpoena to negotiate terms of compliance, usually with the staff of the committee that issued the subpoena.

## Depositions

A deposition is a mechanism through which a congressional committee can elicit sworn testimony from a witness in a non-public setting, similar to depositions that occur in the context of civil litigation. The frequency of congressional depositions has increased in recent years. Depositions are subject to formal regulations promulgated by the House or Senate Rules Committee, including that depositions be taken under oath and transcribed.

## Witness hearings

Congressional hearings are opportunities for congressional committees to raise the political salience of important policy issues and to publicly question witnesses. They are also one of the primary avenues for political theater and for members to create “viral” moments to raise money or otherwise boost their political profile.

If an organization receives a request for a representative to appear at a hearing or to provide documents or testimony, they should consult with counsel to assess the request and get advice as to when and how to engage with Congress. Counsel may also be able to negotiate directly with committee staff to narrow the scope of investigative requests.

# State Investigations and Oversight

**JUST AS AT THE FEDERAL LEVEL**, there is a risk that civil society organizations may be targeted for politicized investigations by state government officials.

State government officials conduct oversight and investigations using many of the same tools their federal counterparts employ. They also undertake investigations for many of the same core motivations: State legislators investigate matters that could be the subject of legislation, and state attorneys general and other state agencies enforce and administer the laws of the state.





# State Attorneys General

## Criminal and civil investigations

**STATE ATTORNEYS GENERAL (AGs)** serve as the chief law enforcement officers in their states and have considerable power to investigate potential violations of state law and sometimes federal law. Many also have the power to issue legal opinions that can shape the law on particular topics. State AG oversight authority carries the full force of law.

Although the authority of state AGs varies somewhat, they generally can employ oversight tactics that parallel those of their federal counterparts and use many of the same investigative tools:

- Informal inquiries that may begin or appear as conversational
- Letters and written inquiries
- Document requests
- In-person site visits from an employee or representative of the state AG's office (these can be pre-planned or unannounced)
- Subpoenas (including grand jury subpoenas)
- Civil investigative demands (CIDs)

Depending on the instrument a state AG uses to seek information from an organization, they may initiate a legal process that requires an organization to respond. For example, although not every letter request requires a response, a CID typically does.

# State Tax and Charity Oversight Agencies

## Investigations into nonprofit status and charitable solicitations

**ALL 50 STATES HAVE** their own official taxation agency. Both state and federal tax agencies can recommend that state AGs open prosecutions into alleged tax crimes, including fraud and evasion. Audits conducted by state tax agencies are just as serious as ones conducted by federal agencies and can result in civil or criminal penalties. The state can take away licenses, issue fines, and even prohibit an entity from operating as a nonprofit. Criminal penalties are much rarer and graver.

Many states also have agencies tasked with regulating nonprofit organizations' solicitation of charitable contributions. Organizations are typically required to register with these agencies before they ask for donations, and they often have to submit periodic financial reports. State agencies charged with overseeing charitable contributions can impose penalties — from fines to bans on making charitable solicitations within the state — and, in some circumstances, file criminal charges against organizations that fail to meet these requirements.

# Other State Agencies

Investigations related to business operations, state grants, civil rights, and more

**STATE AGENCY INVESTIGATIONS ARE** structurally similar to federal agency investigations. Just as DOJ is the nucleus of federal law enforcement, state AGs generally are the hub of law enforcement at the state level. Governors also have authority over a number of state executive agencies that function similarly to federal agencies. States may have a long list of commissions, departments, divisions, and agencies that have statutory authority to administer and enforce state law.

Similar to their federal counterparts, state regulatory agencies also possess significant investigative authorities that could be wielded to punish a civil society organization for its disfavored views or status. For example, in 2018, New York State’s top financial services regulator allegedly pressured banks and insurance companies to stop doing business with the National Rifle Association (NRA) in exchange for reduced liability for other infractions. The Supreme Court recently held that the NRA plausibly alleged that the agency had overstepped its authority and violated the NRA’s First Amendment rights, explaining that while the superintendent of the agency “was free to criticize the NRA and pursue the conceded violations of New York insurance law,” she could not “wield her power ... to threaten enforcement actions against [state-]regulated entities in order to punish or suppress the NRA’s gun-promotion advocacy.”

Although their investigative tools are similar, the specific tools and authorities available will vary across state agencies. State agencies investigating an organization may request (or demand) documents or seek to interview representatives to gather information. They may also coordinate with state or local law enforcement to gather evidence for potential prosecution.

# State Legislatures

## Broad inquiries that vary by state

**LIKE CONGRESS, STATE LEGISLATURES** have broad authority to investigate matters that could be the subject of legislation or that otherwise further the body's legislative purpose. Each legislative body has different authority, as outlined by the respective state constitution. Within and across legislative bodies, different chambers and committees will have their own rules. But state legislators have the same core set of tools that federal legislators have: They can request and, at times, *demand* that private parties turn over documents and information, sit for a deposition, or testify at a hearing.

# Key Investigative Tools

Understanding government capabilities and recommended responses

|                                                                                                                                                                                                                                                                  | REQUIREMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | RECOMMENDED ACTION                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Law enforcement outreach</b><br><br>A federal or state official or law enforcement agent may contact an organization by visiting in person, sending a letter, or initiating a phone call.                                                                     | <b>May require a response.</b><br><br>While the authority of these officials can be intimidating, engagement is sometimes voluntary. An organization often may refuse to answer questions and generally may deny officials access to non-public areas of their business. (An official may have a warrant or other legally valid justification for a site visit or informational request/demand. Such visits may require compliance and must be evaluated on a case-by-case basis with the assistance of an attorney.) | <b>Contact a lawyer.</b><br><br>If an organization receives a letter, call, visit, or other information request from a state or federal agency, it should contact a lawyer before deciding whether and how to respond. |
| <b>Interview requests</b><br><br>The government can ask individuals (in their personal capacity or as a representative of an organization) to sit for interviews where a team of prosecutors and/or investigative agents ask questions and record written notes. | <b>Voluntary with risk of escalation.</b><br><br>When government officials request an interview, it will not always be clear whether the person or organization they wish to interview is themselves a target of investigation or may simply be thought to have information about someone else who is a target. Failure to respond could lead to further investigative steps.                                                                                                                                         | <b>Contact a lawyer.</b><br><br>There are pros and cons to voluntary interviews, and organizations should consult with counsel before responding to such requests.                                                     |
| <b>Document requests and letter inquiries</b><br><br>Government agencies can ask organizations to provide documents for review. Officials may seek documents relating to an organization's financial records, business practices, or client information.         | <b>Voluntary with risk of escalation.</b><br><br>Without a lawfully issued subpoena or a civil investigative demand, these document requests are voluntary. If the request comes from a legislative committee chair or other influential member, however, there is a higher chance of escalation to a subpoena if it is ignored.                                                                                                                                                                                      | <b>Contact a lawyer.</b><br><br>A recipient of such a request should consult with counsel before agreeing to provide documents to the government.                                                                      |

## REQUIREMENTS

## RECOMMENDED ACTION

### Civil investigative demands (CIDs)

If there is reason to believe a person or entity possesses information relevant to an investigation, some government agencies have the authority to issue a CID. This is a vehicle to demand the production of documents, written interrogatory responses, or sworn testimony in order to gather evidence before litigation begins. CIDs are one way the government can assess whether to initiate enforcement proceedings.

#### Requires immediate attention.

Responding to a CID is not voluntary, and government agencies generally can enforce CIDs in court. CIDs can be issued to organizations that are targets of a government investigation, or to others that are not being targeted but may have information of interest to the government.

#### Contact a lawyer.

If an organization receives a CID, it is prudent to consult with counsel who can advise on whether, when, and how to negotiate directly with the government regarding the scope of the information sought. Back-and-forth with counsel is routine — and often expected — for government lawyers, and it can be helpful in reducing the burden of compliance.

### Subpoenas

Several government agencies can issue subpoenas — formal written orders to appear in a legal proceeding or to produce documents to the government. Subpoenas can also compel an individual, in their personal capacity or as the representative of an organization, to sit for a deposition.

#### Requires immediate attention.

Subpoenas are not voluntary, and a failure to respond can result in being held in contempt.

#### Contact a lawyer.

An organization should consult counsel upon receiving a subpoena to determine the proper response. Just as with CIDs, counsel can often negotiate with the government to narrow the scope of information sought. (Subpoenas can take different forms, including administrative, congressional, and those served as part of an ongoing criminal or civil case. Counsel will help you understand the scope and requirements for each of these).

### Grand Jury Subpoenas

If the government believes that a person or organization has information relevant to a potential violation of criminal law, it can issue a subpoena for that person or organization to testify before a grand jury or to produce relevant documents.

#### Requires immediate attention.

Grand jury subpoenas are not voluntary.

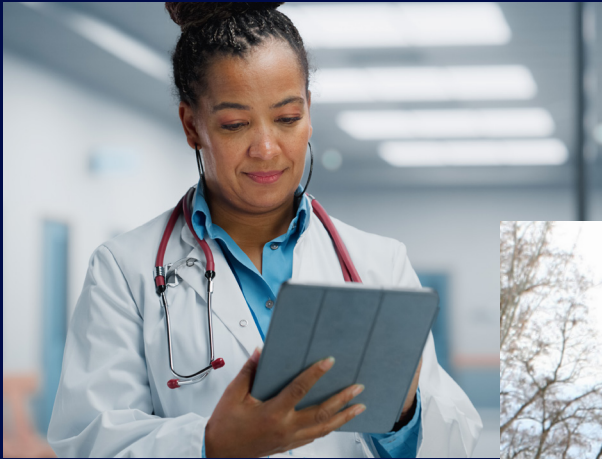
#### Contact a lawyer.

An organization should consult counsel upon receiving a grand jury subpoena to determine the proper response. Grand juries operate with special rules around confidentiality and disclosure, so an organization that has received a grand jury subpoena should not publicize or discuss it.

# Case Studies: Three Real Investigations

This section illustrates what investigations can look like in practice when abused by government actors. Over the past decade, groups from across the ideological spectrum have experienced undue scrutiny at the state and federal level — occurrences that are only likely to increase if an authoritarian takes hold of the levers of power.





# Attempting to shut down a Texas migrant shelter

**ANNUNCIATION HOUSE IS A CATHOLIC** volunteer organization located approximately ten blocks from the U.S.-Mexico border that seeks to serve the “poorest of the poor.” It has been offering housing and resources to migrants in El Paso, Texas since 1978. Annunciation House volunteers live in community with the guests, and they also participate in advocacy related to immigration issues.

On February 7, 2024, Texas Attorney General Ken Paxton sent three lawyers to Annunciation House. The lawyers demanded to enter the premises and search Annunciation House’s records without a warrant, stating that the “attorney general’s office had the power to immediately enter the building without one.” When Annunciation House refused, the attorney general’s office issued an administrative subpoena for a large volume of documents with a one-day deadline. Paxton specifically sought the names of individual residents of the shelter, as well as information about their medical history and the identity of their family members. Through counsel, Annunciation House sought judicial intervention, arguing that one day was not enough time and asking a judge to determine which documents the shelter was legally required to turn over.

Annunciation House was granted a temporary restraining order (TRO). AG Paxton subsequently filed a countersuit that sought to overturn the TRO and have the shelter shut down altogether. Pending these proceedings, Paxton issued the following statement:

“The chaos at the southern border has created an environment where NGOs, funded with taxpayer money from the Biden Administration, facilitate astonishing horrors including human smuggling. While the federal government perpetuates the lawlessness destroying this country, my office works day in and day out to hold these organizations responsible for worsening illegal immigration.”

The matter became increasingly high-profile and attracted attention from the national press. Pope Francis himself weighed in on *60 Minutes*, calling the investigation “sheer madness.”

On July 1, 2024, the state district court judge issued a pair of rulings denying AG Paxton’s requests for an injunction and penalties and granting summary judgment in favor of Annunciation House. He ruled that the state failed to establish probable grounds to close the nonprofit and found that it had violated the organization’s religious freedoms. On July 15, Paxton appealed. On August 23, the Texas Supreme Court granted Paxton’s appeal.

## Case Study Learnings

---

- ➔ **State attorneys general (AGs) are political actors** who may act for partisan reasons or for perceived political gain.
  - ➔ **State AGs willing to abuse their power may deploy a variety of tactics** like the ones used against Annunciation House:
    - Using government lawyers to intimidate small organizations that may not have their own legal counsel
    - Forcing an organization to incur legal expenses or find pro-bono counsel
    - Smearing the organization's reputation, as Paxton did when he referred to Annunciation House in court filings as an "illegal stash house" using "its real estate to engage in human smuggling"
    - Attempting to scare organizations with the threat of enforcement activity and unreasonable deadlines in order to secure immediate compliance with their demands
    - Attempting to halt operations and/or shut down the organization entirely
  - ➔ **Some state AGs will push the envelope and test just how far they can go** to further political ends or intimidate perceived political opponents. As the state's top law enforcement officer, state AGs are constitutionally obligated to enforce state law, yet as the lower court noted in the Annunciation House case, "there was no attempt whatsoever to negotiate by the attorney general, which is what gives the court rise for concern that there are ulterior political motives here ... that go outside of what the law requires, go outside of what the law demands."
-

# Heightened scrutiny for tax-exempt status of Tea Party-aligned groups

**IN 2010, THE NUMBER** of applications the Internal Revenue Service (IRS) received for tax-exempt status increased as certain nonprofit organizations began organizing around the “Tea Party” movement. In 2013, an IRS official admitted that some agency personnel had been improperly flagging applications for tax-exempt status: Applications from organizations with terms like “Tea Party” and “patriots” in their name were being pulled and held for extra scrutiny.

While press reports at the time painted this “scandal” as an instance of the Obama Administration targeting its political opponents, investigative journalism and a 2017 report from the Treasury Department later revealed that organizations with “occupy,” “progressive,” and “clean energy” in their names also received extra scrutiny during the period from 2004 to 2013.

The IRS personnel flagged hundreds of these 501(c) applications for additional layers of review, questioning, and delay, sometimes requesting donor information or extraneous and sensitive information not necessary to determine an organization’s tax-exempt status.

In 2017, DOJ entered into settlements with 469 groups who claimed to have been improperly targeted for heightened review. Then-Attorney General Jeff Sessions announced the settlements, saying, “The IRS’s use of these criteria as a basis for heightened scrutiny was wrong and should never have occurred. It is improper for the IRS to single out groups for different treatment based on their names or ideological positions. Any entitlement to tax exemption should be based on the activities of the organization and whether they fulfill requirements of the law, not the policy positions adopted by members or the name chosen to reflect those views.”

Notably, these improperly flagged applications were not the result of retribution on the part of political appointees. Rather, they were the work of IRS bureaucrats who sloppily enforced their own rules. The frequency, scope, and severity of these kinds of investigations would likely have been much more extensive had White House or other political appointees directed IRS personnel to target organizations they designated as the opposition.

## Case Study Learnings

---

- ➔ **Organizations that are perceived as having an ideological bent may receive additional scrutiny** when interfacing with government officials for the purposes of taxation, grants, or federal funding.

---

- ➔ **Individuals will sometimes act improperly or misinterpret the guidance they receive on the job.** Even though the day-to-day operations of the IRS are carried out by nonpartisan, career civil servants, this case study illustrates the ways in which political institutions are human institutions. In this case, the Treasury Inspector General for Tax Administration found that IRS personnel had flagged applications for tax-exempt status for further review based on the organizations' names or policy positions rather than on indications of political activity or campaign intervention.

---

- ➔ **Where agency personnel misuse their enforcement authority, there are checks in place to remedy the problem.** In this case, those checks were external ones. A free and independent press works to bring incidents like this to public attention, and public attention places pressure on government officials to root out misconduct.

---

- ➔ **An authoritarian regime would heighten the threat of federal agency personnel misusing their authority** to obstruct the work of various civil society organizations.

---

- ➔ **Speaking publicly may be beneficial if an organization believes it is being improperly targeted** for the nature of its mission or the views of its members. It may also want to reach out to allies and partners. In this case, more than 400 nonprofit organizations that believed they were improperly targeted by the IRS worked in concert to publicize the issue and ultimately to form a class that would jointly seek legal remedies. Pushing back can succeed if an organization speaks up, gets organized, and uses its resources effectively.

---

# Illegally recorded conversations and a faux scandal

**IN 2013, PLANNED PARENTHOOD** was the target of a “sting” operation that illegally recorded, and later misrepresented, conversations with its personnel.

Planned Parenthood had a longstanding practice of donating fetal tissue to medical research, and it received reimbursements to cover the costs of handling and transferring these tissue specimens. Individuals claiming to be from the Center for Medical Progress (CMP), a fictitious biomedical research company, trespassed on Planned Parenthood properties and illegally recorded meetings with abortion providers. CMP then used the video footage to claim that Planned Parenthood was “selling baby parts” and profiting from the use of fetal tissue. Planned Parenthood was vindicated of any wrongdoing, and those who recorded the conversations were convicted of breaking federal and state laws. But that did not stop Congress and several states from treating the incident as a scandal and making Planned Parenthood the target of their own investigations.

When the edited videos became public, 13 states and five congressional committees launched investigations into Planned Parenthood and its practices of receiving reimbursement for fetal tissue donation. The House Oversight Committee subpoenaed and obtained all unedited video footage from CMP.

None of these investigations concluded that Planned Parenthood had violated the law. In the end, it was CMP, and not Planned Parenthood, that was charged with a crime.

## Case Study Learnings

---

- ➔ **Organizations should be on guard for bad-faith actors** during day-to-day interactions: Not everyone who approaches an organization does so with good or honest intentions.
  - ➔ **Spurious claims from private actors may not dissuade government entities from taking action** — in fact, the opposite may be true. Despite the baseless allegations against Planned Parenthood, governmental officials still pursued partisan and politicized inquiries into the organization.
  - ➔ **An organization carrying out its mission with ethics and integrity can often survive even the heaviest scrutiny.** Planned Parenthood carried on with its work while investigations swirled for years and ultimately found nothing.
-



# How to Prepare Your Organization

One hallmark of a functioning democracy is a diverse range of active civil society organizations, some with ideological goals that are shared by elected officials and some that are not. If any of these organizations find themselves on the receiving end of government scrutiny, it can be unclear whether the attention is lawful and legitimate or motivated by partisan politics or authoritarian tactics.

The 11 strategies on the following pages outline how organizations can — and should — prepare for investigations in a way that mitigates risk and allows them to carry on with lawful work.

---

## 1 Keep calm and carry on with the mission.

Despite valid fears of potential investigations, organizations should resist the urge to panic and continue to serve the public interest by carrying out their mission. Organizations should remind employees and stakeholders that they have a plan in place to respond to governmental inquiries — one that ensures they can both respond to the inquiry and continue with their mission-related work.

---

## 2 When in doubt, contact a lawyer. (And have one ready!)

If an organization does not currently retain counsel, it should know who it would call if it receives an investigative inquiry. Many law firms and legal services organizations may be able to provide representation, or at least an initial consultation, on a pro-bono basis. Additionally, most state bar associations offer lawyer referrals and can be a good place to start a search for legal services.

---

## 3 Have a plan.

Before an organization is subject to investigation by the government, it should already have a contingency plan in place. This plan should include a crisis communications framework and instructions on how to utilize its internal and external resources to respond to an investigation.

---

## 4 Embrace good governance.

Even when there is less concern about politicized government investigations or other overreach, an organization should establish and maintain strong governance practices. Strong internal governance and finance practices can protect an organization if and when it comes under scrutiny. These practices include:

- Implementing strong internal procedures to ensure compliance with 501(c)(3) and/or 501(c)(4) tax status
  - Ensuring that state registrations for charitable solicitations are up to date
  - Authorizing an independent body to carry out annual financial audits
  - Adopting and enforcing policies related to whistleblower protection
  - Maintaining clarity around the board of directors' roles and responsibilities
  - Building or enhancing an independent, professional human resources role
-

---

## 5 Implement document retention policies now.

Organizations should develop and follow a document retention policy, including policies for email communications. They need a policy outlining what to keep and how long to keep it. Having a policy that is documented, known by staff, and adhered to helps organizations manage their records and avoid later allegations that documents were destroyed improperly. Organizations should implement document retention policies now, *before* they are faced with the prospect of an inquiry or investigation.

---

## 6 Ensure confidential information is protected.

Alongside document-retention policies, organizations should ensure they have policies and procedures around handling confidential information, including document management systems for storage, standardized naming conventions for confidential information, and codified policies around how to safeguard and distribute such information.

---

## 7 Establish physical and cybersecurity protocols.

Organizations should be mindful of the physical security risks their employees might face while under investigation. Organizations should require physical security training and implement emergency response protocols to keep their employees both physically and emotionally safe.

Organizations should also be prepared to address the rising threat of cyber attacks. They can strengthen their cyber protections by implementing the following practices, among others: adopting written cybersecurity policies, conducting mandatory staff training that teaches employees how to spot and flag different hacker techniques, and installing a virtual private network (VPN) that protects users by encrypting their data.

---

---

## 8 Get honest with funders and partners.

Organizations targeted for politicized government investigations should be upfront with their donors about these potential threats. Being honest shows integrity and demonstrates that the organization has nothing to hide. Moreover, funders and partners may be able to provide technical assistance or additional funding to support responding to an inquiry. And communicating with like-minded organizations, as appropriate, can be a good way to mobilize external resources and avoid interruptions to the work and mission.

---

## 9 Build broad coalitions.

Organizations may think it is easier to deal with threats quietly by self-censoring, cutting off politically controversial funders, and distancing themselves from targeted organizations or those already under investigation. Research shows, however, that organizations that work with a broad coalition and fight against polarization within civic spaces combat authoritarianism more successfully.

---

## 10 Assume anything in writing could be disclosed.

In addition to the federal Freedom of Information Act (FOIA), states also have their own FOIA laws, often called public records acts, to compel the production of certain categories of information. This could include an organization's communications with government officials or agencies. Organizations should be aware of public records laws and assume that written work could eventually be disclosed — voluntarily or not.

When communicating with any agent of the state or federal government, especially in writing, organizations should keep in mind that, although some categories of documents are protected from disclosure by FOIA exemptions and exclusions, emails and other written records can often be obtained by a private party via a FOIA or other public records request. This can include text messages to a government staffer's personal number and emails to a staffer's personal account.

Organizations should use good email hygiene and avoid communicating in ways that are prone to being taken out of context. If one document is swept into the scope of a subpoena or FOIA request without a large body of research or background information to provide important context, it could become a flashpoint.

---

---

## 11 Train staff to be aware of bad-faith actors.

Not every person who contacts an organization with questions or seeking services may be acting in good faith. If bad actors publicize surreptitiously recorded conversations, for example, that can snowball into scrutiny from government agencies. An organization can guard against this by considering what aspects of its mission or services may be considered controversial to opponents or most susceptible to scrutiny.

- Remember that phone and online conversations, as well as in-person visits, may be surreptitiously recorded. Political provocateurs have targeted non-profits and other organizations by posing as volunteers, donors, potential clients, or even patients and eliciting statements (which they record) from an unsuspecting staff member that may later be taken out of context and used against the organization.
  - Every organization should have a process in place for handling incoming inquiries and ensuring that any intake personnel follow predetermined scripts and do not give out unnecessary information over the phone.
  - Remind staff that not everyone who contacts the organization “for help” may be doing so in good faith.
-

# Conclusion:

## Resisting a looming threat

**POLITICIZED GOVERNMENT INVESTIGATIONS** can feel threatening. Indeed, that's often the point. But as outlined in this guide, they need not be paralyzing. Organizations can — and should — take steps now to ensure that lawful, mission-driven work continues even in the face of an investigation. In doing so, organizations can protect their ability to meet their missions and, more broadly, help guard against the closing of civic space — which remains one of the strongest defenses against the autocratic movement.

## **Photo Credits**

### **Cover**

All images Shutterstock

### **Page 5**

All images Shutterstock

### **Page 9**

All images Shutterstock

### **Page 19**

All images Shutterstock

### **Page 27**

From top: Shutterstock; Matthew Heinrichs/Alamy Stock Photo; Shutterstock





Protect Democracy is a nonpartisan, nonprofit organization dedicated to preventing American democracy from declining into a more authoritarian form of government.

**[protectdemocracy.org](https://protectdemocracy.org)**



# Trump 2.0 Resilience

## *The New McCarthyism: Preemptive Obedience & the Threat to Nonprofits*



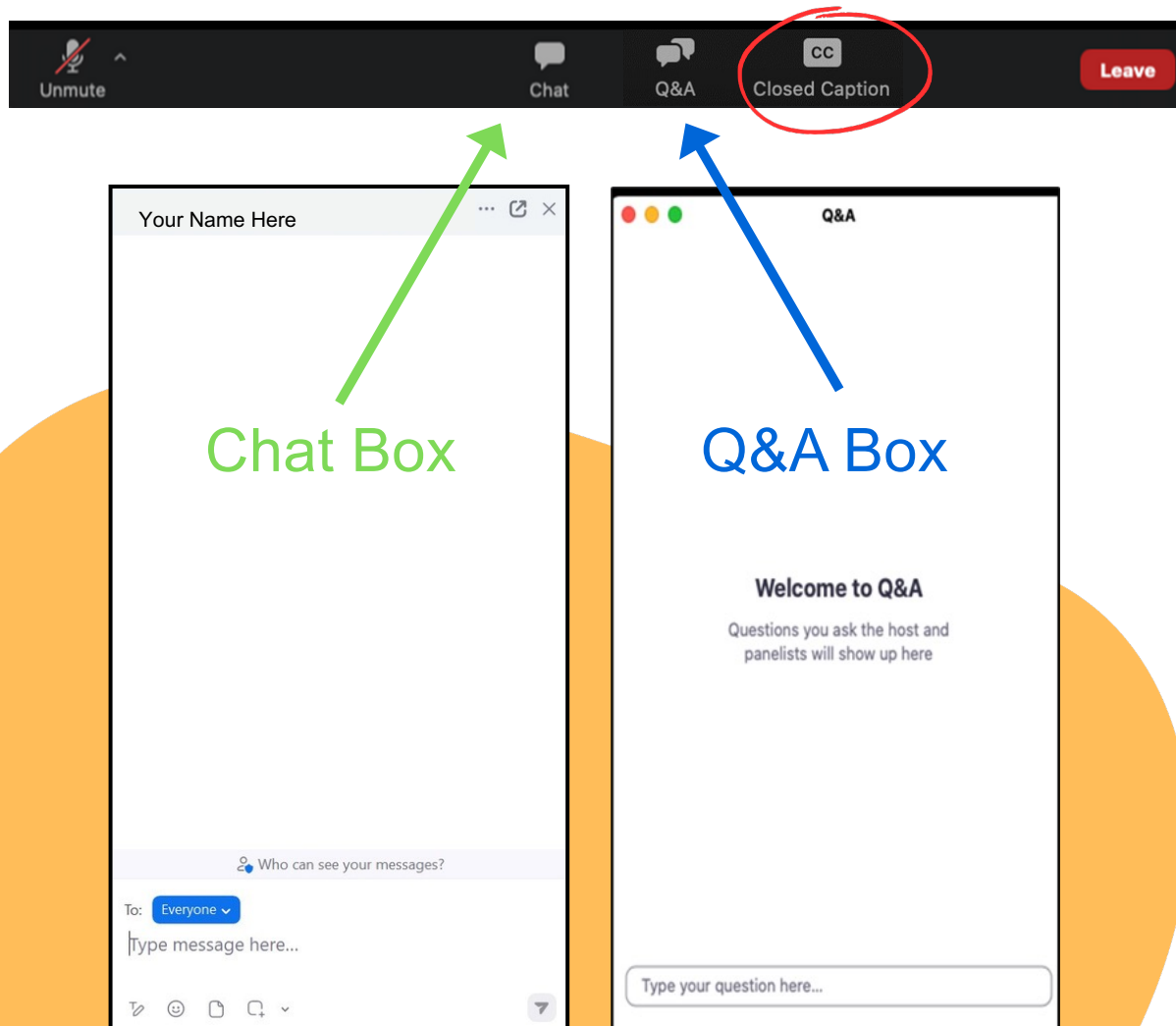
**CalNonprofits**

CALIFORNIA ASSOCIATION OF NONPROFITS

The voice for California's  
nonprofit community.

SHARISSE COUTLER  
photography

# Housekeeping & Zoom Tools



Use the **Chat Box** to chat with other participants. Choose “Everyone” to send the message to the whole audience or select a particular participant from the dropdown to directly message an individual.

Use the **Q&A Box** to send questions to our speakers. Pro tip: “Upvote” a question in the Q&A box by clicking the thumbs-up button -- that tells us it’s a popular question! Questions may be answered live or through text in the Q&A feature.

To view captions, click “**Closed Caption**” at the bottom of your Zoom screen.

Technical difficulties or questions? Send a chat message to “Event Tech” in the chat box!

The webinar recording and resources will be emailed to registrants in a few days!



**Geoff Green**  
Chief Executive Officer  
CalNonprofits





# About Us



As the leading policy voice for California's nonprofit sector, **CalNonprofits focuses on advocacy, education, and research** to build a more powerful and politically engaged nonprofit network across the state



**Policy & Advocacy**



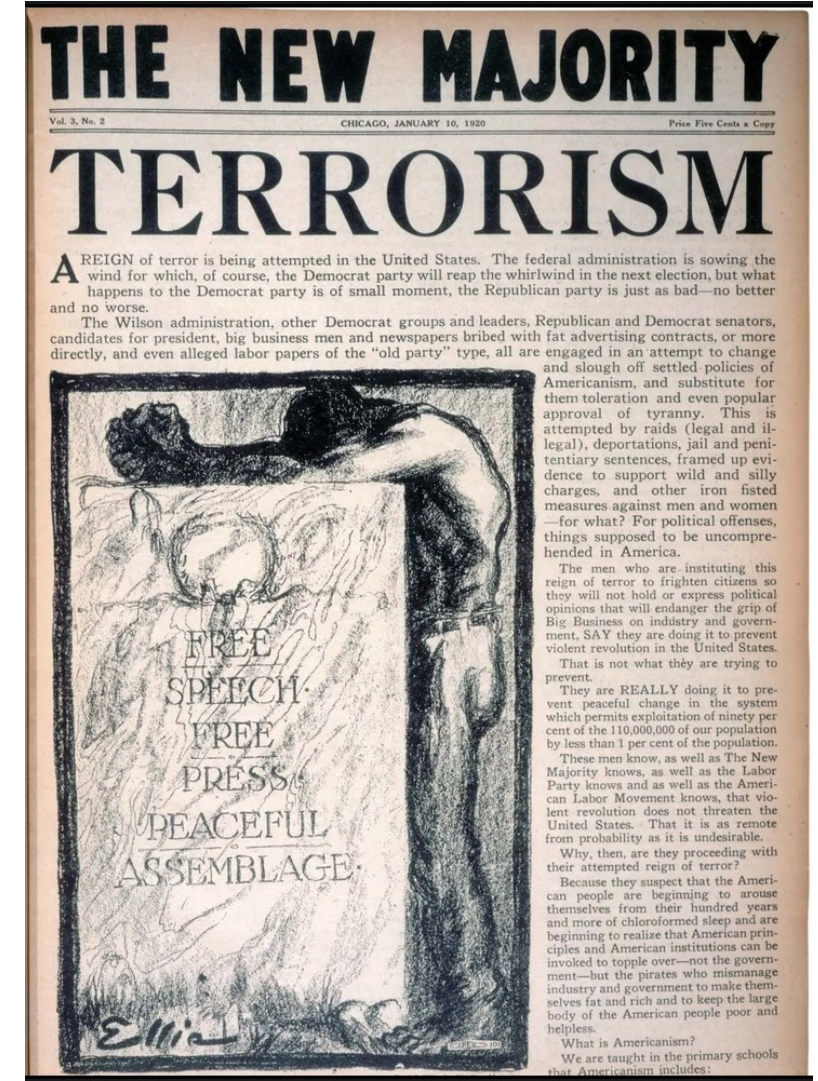
**Education**



**Data & Research**



# "The New McCarthyism"



# 157 Executive Orders (as of May 29, 2025)



## FEDERAL REGISTER

Reader Aids :: Insight Into the FR Ecosystem



★★ Executive Orders

### 2025 Donald J. Trump Executive Orders

[view all Presidential Documents](#)

In 2025, Donald J. Trump signed 152 Executive orders (from EO 14147 through EO 14298).

This page contains documents that have been published in the Federal Register.\* Because the White House cannot deliver a document to the Office of the Federal Register (OFR) until after the President signs a document, there is always a delay (of at least one day, typically of several days) between when the President signs a document and when it is published. Once received, OFR gives presidential documents priority processing and documents will appear on public inspection the business day before publication. If you are looking for a recently-signed Presidential document, you may wish to check the White House [website](#).

These 152 Executive orders can be downloaded in [CSV/Excel](#) and [JSON](#) formats. More information about our APIs and other developer tools can be found on our [developer pages](#).

<https://www.federalregister.gov/presidential-documents/executive-orders/donald-trump/2025>

[www.calnonprofits.org](http://www.calnonprofits.org)



# Executive Order 14151 on January 20, 2025

**Executive Order 14151 of January 20, 2025**

## **Ending Radical and Wasteful Government DEI Programs and Preferencing**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

**Section 1. *Purpose and Policy.*** The Biden Administration forced illegal and immoral discrimination programs, going by the name “diversity, equity, and inclusion” (DEI), into virtually all aspects of the Federal Government, in areas ranging from airline safety to the military. This was a concerted effort stemming from President Biden’s first day in office, when he issued Executive Order 13985, “Advancing Racial Equity and Support for Under-served Communities Through the Federal Government.”



# And What They All Mean...

## Executive Orders Affecting Charitable Nonprofits

Updated May 27, 2025

New updates are highlighted in beige.

After his January 20th inauguration, President Trump signed dozens of Executive Orders (EOs) covering a broad range of issues, including diversity, equity, and inclusion programs; government grants and contracts; civic engagement; immigration; and certain nonprofit subsectors. **Some of the EOs won't take effect immediately, and many are expected to be immediately challenged in court.** This chart outlines some of the EOs that may affect nonprofits directly or indirectly.

This document will be updated frequently, so please use this link to see the most up-to-date version:

<https://www.councilofnonprofits.org/files/media/documents/2025/chart-executive-orders.pdf>

Help us track the impacts of the recent Executive Orders on the nonprofit sector by sharing your stories of observed impacts on your work and the people you serve: <https://www.councilofnonprofits.org/form/effects-executive-actions-nonprofits>

## Background Resources

- National Webinar: Executive Actions and their Impact on Charitable Nonprofits (57:38) [recording](#) and [slides](#), National Council of Nonprofits, Feb. 7, 2025
- [The Impacts of the Recent Executive Orders on Nonprofits](#), National Council of Nonprofits.
- [Presidential Actions](#), White House.
- [What Is an Executive Order?](#), American Bar Association, Jan. 25, 2021.

<https://www.councilofnonprofits.org/files/media/documents/2025/chart-executive-orders.pdf>

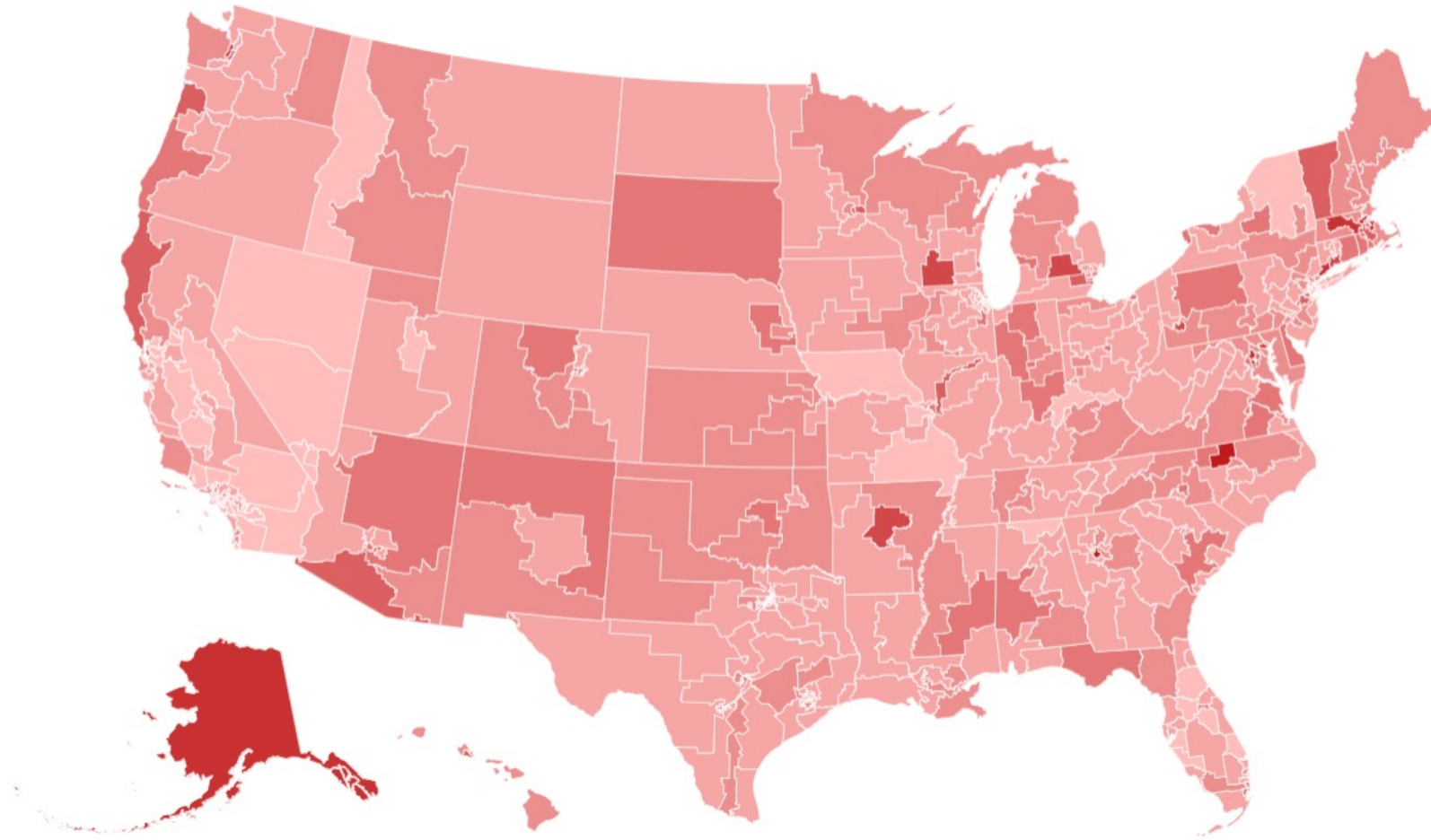




## Number of grant and lease terminations made by the Trump administration and the Department of Government Efficiency (DOGE) by congressional district

Hold ⌘ Command (Mac) or ⌘ Windows (PC) key + scroll to zoom, or pinch on mobile.

Fewer  More



<https://www.americanprogress.org/article/doge-cuts-by-city-state-and-congressional-district/>



# United States Senate Committee on APPROPRIATIONS

[ABOUT THE COMMITTEE](#)[NEWS](#)[SUBCOMMITTEES](#)[HEARINGS](#)[LEGISLATION](#)

|             | Program                                                                                                                      | Agency                                                              | Amount    | Status               | What's Happening                                                                                                                                                                                                                                                                                 | What's                                                         |
|-------------|------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-----------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| 1           | National Telecommunications and Information Administration (NTIA) Digital Equity Act Capacity and Competitive Grant Programs | Department of Commerce                                              | \$2,140M  | Frozen               | State and local projects to ensure meaningful adoption of broadband through digital inclusion are not being approved, and funds for previously awarded projects are not being made available.                                                                                                    | State al<br>address:<br>online :<br>long as                    |
| 2           | National Telecommunications and Information Administration (NTIA) Broadband Equity, Access, and Deployment (BEAD) Program    | Department of Commerce                                              | \$42,450M | Frozen               | State plans for broadband deployment are not being approved and funds for already approved plans are not being made available.                                                                                                                                                                   | The lon<br>remain<br>a disad<br>these p                        |
| 3           | Emergency Funding Provided for the Bureau of Industry and Security                                                           | Department of Commerce<br>Bureau of Industry and Security (BIS)     | \$20M     | Cancelled/Terminated | President Trump has refused to designate \$2.934 billion of emergency funding provided in the FY25 continuing resolution (CR), which includes \$20 million provided for BIS. The President cannot cherry pick the emergency funding he likes without putting all \$12.4 billion in emergency ... | BIS face<br>nationa<br>promot<br>resourc<br>People'<br>adverse |
| 4           | Emergency Funding Provided for the Economic Development Administration                                                       | Department of Commerce<br>Economic Development Administration (EDA) | \$30M     | Cancelled/Terminated | President Trump has refused to designate \$2.934 billion of emergency funding provided in the FY25 continuing resolution (CR), which includes \$30 million provided for EDA. The President cannot cherry pick the emergency funding he likes without putting all \$12.4 billion in emergency ... | EDA fac<br>distress<br>build d                                 |
| 5           | Emergency Funding Provided for the International Trade Administration                                                        | Department of Commerce<br>International Trade Administration (ITA)  | \$50M     | Cancelled/Terminated | President Trump has refused to designate \$2.934 billion of emergency funding provided in the FY25 continuing resolution (CR), which includes \$50 million provided for ITA. The President cannot cherry pick the emergency funding he likes                                                     | ITA fac<br>compe!<br>and coi<br>resourc<br>People'             |
| 114 records |                                                                                                                              | Sum \$436,874M                                                      |           |                      |                                                                                                                                                                                                                                                                                                  |                                                                |



<https://www.appropriations.senate.gov/trumps-funding-freeze>

\$436,874,000



# State Level Protections

## *19 States Sue the Trump Administration Over Its D.E.I. Demand in Schools*

The Trump administration threatened to withhold federal funding from states that did not enforce its interpretation of civil rights law.

NEWS

### Trump Cut Education Grants Over 'DEI.' It Will Worsen Teacher Shortages, Lawsuit Says

By Katie DeBenedetti Mar 6 [Save Article](#)



California Attorney General Rob Bonta fields questions during a press conference on Monday, Aug. 28, 2023, in Los Angeles. California and seven other states announced Thursday that they are suing the Department of Education over the termination of \$800 million in grants used to train teachers and nonprofits nationwide. (Marcio Jose Sanchez/AP Photo)

**Update, March 11:** On Monday, U.S. District Judge Myong J. Joun granted a **14-day temporary restraining order (PDF)** blocking the Trump administration from terminating the TQP and SEED grants in California and the other plaintiff states while the states seek a preliminary injunction.

# State Level Protections

AMENDED IN ASSEMBLY MAY 1, 2025

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1318**

---

**Introduced by Assembly Member Bonta**  
*(Coauthor: Assembly Member Lee)*

February 21, 2025

---

An act to amend Sections 13275, 13304, 13306, 13401, and 13650 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.



# Some Questions For Today...

- **Can we still pursue our mission?**
- **Should we change our language?**
- **Has the law actually changed?**
- **How do we continue our work and protect our communities?**
- **What role can / should our funders play?**
- **Can we actually use this moment to build our power?**
- **How do we most effectively communicate?**





# Today's Panelists



**Ritu Mahajan Estes**  
Directing Attorney  
Public Counsel



**Crystal Crawford**  
Senior Director of  
Strategic Partnerships  
Weingart Foundation



**Felix Schein**  
President  
RALLY



---

# The Emerging Landscape of Diversity, Equity, and Inclusion

---



---

**Ritu Mahajan**  
**[rmahajan@publiccounsel.org](mailto:rmahajan@publiccounsel.org)**  
**<https://publiccounsel.org/services/nonprofits/>**

---



The Community Development Project provides free legal assistance to qualifying low-income entrepreneurs and qualifying nonprofit organizations that share our mission of serving low-income communities and addressing issues of poverty within Los Angeles County.



Public Counsel's Community Development Project is part of a coalition of civil rights organizations offering strategic resources and legal assistance to help California non-profit organizations navigate the legal landscape following the Supreme Court's Students for Fair Admissions case and the January 2025 DEI Executive Orders.



# DEI Programs and Initiatives

---

DEI is simply giving all people fair access to opportunity so they can build their own American Dream - **American Pride Rises**

- Diversity, equity, and inclusion (DEI) or DEIAB (accessibility, belonging) are organizational frameworks that seek to promote the fair treatment and full participation of all people, particularly groups who have historically been underrepresented or subject to discrimination based on identity or disability.
- Diversity, equity, and inclusion—represent three interconnected values that individuals and organizations have worked to institutionalize through DEI frameworks, such as equal access to quality education, the ability to participate in our economy fully, and the right to contribute to social policy through voting.
- For more than 248 years, the DEI movement has been at the center of progress in our nation, pushing for policies and initiatives that expand opportunity and push our nation to live up to its highest ideals – from Reconstruction to movements for civil rights, labor rights, women’s rights, disability rights and more.



# Important Civil Rights Laws

| <b>Equal Protection + Due Process</b>                                                                                                                                                                 | <b>Title VI</b>                                                                                                                                                                | <b>Title VII</b>                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requires each state to provide equal protection under the law to all people, and prohibits state and local governments from depriving persons of life, liberty, or property without a fair procedure. | Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.                                   | Prohibits employment discrimination based on race, color, religion, sex and national origin.                                                                                                                                  |
| <b>Section 1981</b>                                                                                                                                                                                   | <b>Unruh*</b>                                                                                                                                                                  | <b>FEHA*</b>                                                                                                                                                                                                                  |
| Protects against racial discrimination in contracts. It applies to employment, banking, and other economic relationships.                                                                             | Protects California residents from discrimination by businesses, including housing and public accommodations. It applies to discrimination based on protected characteristics. | FEHA is a comprehensive set of laws that prohibit discrimination and harassment based on protected characteristics, applies to public and private employers, as well as housing providers, landlords, and real estate agents. |

\*Specific to California-Based Nonprofit Organizations or those with programmatic activities in California



# The Legal Landscape Before January 20, 2025

## SFFA - 2023

In June 2023, the Supreme Court struck down affirmative action in college admissions, ruling that race-conscious admissions were unconstitutional because they no longer regarded race solely as a positive factor, as certain groups' admission rates were adversely affected.

The court decided that race could not be an explicit factor in college admissions, but felt that an applicant's discussion of their experience and life circumstances, including with race, was permissible as part of a holistic review process.

This decision significantly altered the landscape of college admissions, requiring institutions to seek alternative ways to achieve diversity.

## Fearless Fund Case - 2024

This case involves legal challenges to programs designed to fund and support businesses owned by women of color.

Essentially, the Plaintiffs argued that programs that offer benefits/services only to a specific race through contracts violate Section 1981 of the Civil Rights Act.

The case was settled by the Defendant, who ended its grant program for Black women-owned businesses (which they were already set to end) and made some changes to their website and other public-facing materials.

The result in this case does not mean DEI programming is unlawful and does not indicate how successful a lawsuit of this kind would be in California.

## California's Changing Climate

California's robust civil rights laws are being used to challenge and potentially dismantle programs or initiatives aimed at promoting diversity and equity.

This is occurring through lawsuits that argue these programs, intended to combat discrimination and social inequity, negatively impact certain historically privileged groups.

For instance, lawsuits have been filed in California against businesses and organizations that provide services and/or programs to marginalized and at-risk communities.

This has created a complex shifting legal environment in California, and eroding social progress made through legislation and advocacy.

# The DEI Executive Orders

These are just a few of the numerous Executive Orders that the Trump Administration has issued related to civil rights and social inclusion. Others include attacks on immigrants, education, and elections.

1

EO 14151 - Jan 20th, 2025

"Ending Radical and Wasteful Government DEI Programs and Preferencing"

3

EO 14173 - Jan 21st, 2025

"Ending Illegal Discrimination and Restoring Merit-Based Opportunity"

2

EO 14170 - Jan 20th, 2025

"Reforming the Federal Hiring Process and Restoring Merit to Government Service"

4

EO 14168 - Jan 21st, 2025

"Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"

# Other Attacks on DEI Programming

The current administration and conservative activists are exploiting existing laws and programs through targeted efforts against our civil rights and democratic values by politicizing DEI initiatives intended to address discrimination and inequity and falsely portraying these efforts as discriminatory and inequitable.

These attacks intentionally minimize the realities of discrimination and exclusion that many Americans encounter in all sectors of life, with the intent of weakening systems that have fostered significant social progress for historically marginalized groups.



# What Does this Mean for Non-Profits Advancing Equity?

- Effective DEI practices that support equal opportunity, combat biases and promote inclusion are lawful and help ensure legal compliance.
- The DEI Executive Orders do not change long-standing federal and state civil rights laws, and nonprofits may continue to express their commitment to DEI as this speech is protected by the First Amendment.
- Legal issues may arise depending on how a nonprofit's DEI initiatives are carried out.
- Understanding the laws applicable to your programs and practices, as well as familiarizing yourself with the evolving landscape, can help organizations assess risks and navigate challenges while continuing to fulfill their mission and charitable purpose.



# Ensure Compliance with State and Federal Civil Rights and Employment Laws

Analyze your website, public-facing communications, programs, services, and organizational governance policies.

Use an open, inclusive, and multi-faceted selection process for any contracts, grants, programs, and services to reduce legal risk.

Review your organization's non-discrimination statement.

Adopt programs and policies that are open to everyone.

Indicate that your organization is an equal opportunity employer.

Provide equal access to professional development, training, mentorship, and other aspects of employment to everyone you hire.



# Ensure Compliance with State and Federal Civil Rights and Employment Laws

Focus on “individual merit, aptitude, hard work, and determination” in hiring decisions. Encourage applicants to share their experiences with race/identity as part of a holistic review process.

Track applicants’ demographic information to understand the effect of your organization’s hiring practices and lessen disparities.

Recruit widely to attract applicants from various backgrounds.

Add eligibility requirements that are not based on protected categories. Can still encourage applicants to share lived experience with race, gender, identity and discrimination.

Create standardized, objective criteria to assess applicants.





# Best Practices for Organizational Communication and Compliance



Consider identifying beneficiaries through private process rather than accepting unsolicited applications.

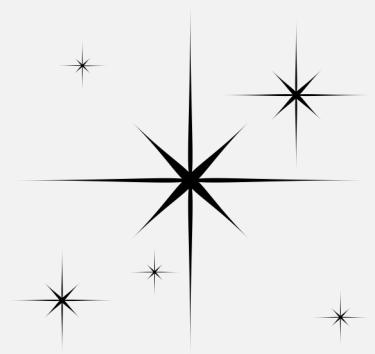
To the extent possible, provide unconditional gifts instead of contracts.

Avoid quotas and job placements limited by protected categories.

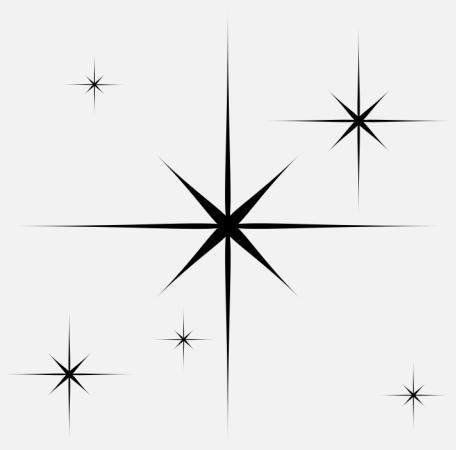
If your programming is open to all, make that explicit.

Keep an eye on the evolving landscape.

# We must continue to address racial, social, and economic (in)equity in our communities



- Programs that advance and promote racial and gender justice help to ensure that everyone, regardless of their background, has equal access to opportunities, feels valued, and can contribute their unique perspectives.
- *We urge nonprofits to not withdraw from their critical work to advance equity. Maintaining a focus on achieving racial and gender equity is even more critical in this moment when our progress and communities are under attack.*
- Remedying inequality benefits impacted communities, the economy, and the nation as a whole.



---

# **CRISIS COMMUNICATIONS 101**

**RALLY**

# WHERE WE ARE NOW: THE POLITICAL WATERS WE'RE SWIMMING IN



# REACTING IN A MOMENT OF CRISIS: PERSONAS

## THE FIXER

Immediately jumps into action without deep thought; wants to take charge and act instantly.

This could lead you to speak too soon, be out of step with your team, or miss key nuances/details.

## THE PARALYZER

Shuts down, experiences mental paralysis, freezes.

This could lead you to miss the moment to reach anybody, especially the people who care about your position.

## THE LAST MOVER

Feels the need to see how other people respond to guide their own response; needs to consult a lot of people to make a decision.

This could lead you to speak too late.

# REACTING IN A MOMENT OF CRISIS: PERSONAS

## THE NAVIGATOR

Makes rough waters seem navigable by clarifying a shared, uniting goal that points people in the right direction.

This might include clarifying or reframing the stakes of a challenge.

## THE UNIFIER

Quickly brings a range of voices to act and move as a collective.

This might include activating a network of relationships and active field coordination.

## THE UTILITY PLAYER

Understands the role their organization plays and how it can benefit the entire field (which may mean they have resources, power, access, networks, or something else).

This actor embraces their position and may give others air cover to act boldly.

## Goals of crisis communications

- 01 PROTECT CREDIBILITY
- 02 MAINTAIN TRUST
- 03 MINIMIZE POTENTIAL DAMAGE & DISRUPTION



# Principles of crisis communications

Unsure of where to start? Just remember the three Ps.

01

## POSITION

Clearly define your organization's position — who you are, **the posture you want to maintain** during the crisis, and the stance you want to take once it's over. This involves defining your tone, values, framing, and key messages to communicate effectively throughout the crisis.

02

## PEOPLE

Clearly **outline the roles** internal team members will play during and after the crisis, as well as the **key stakeholders** that should be prioritized in communications. This may involve creating a call tree, defining who is monitoring for specific crisis origin points, and designating spokespersons or channels for reaching key stakeholders such as partners, media, or the public.

03

## PLAN

Establish your game plan — **brainstorm potential scenarios, assess the risks, and outline your response strategy for each**. This may involve outlining different threat levels, identifying possible scenarios, crafting tailored communication strategies for each, and establishing a tactical timeline.

# TOOL 1: THREAT LEVEL ASSESSMENT

## LEVEL 1

**Potential Impact:**

Short-term risk;  
Slightly bigger  
versions of day-to-day  
issues

## LEVEL 2

**Potential Impact:**

Notable event, but  
unlikely to pose a  
long-term risk to or  
impact operations,  
partnerships, and/or  
reputation

## LEVEL 3

**Potential Impact:**

Moderate to high  
potential risk or  
impact on operations  
and organization  
reputation

## LEVEL 4

**Potential Impact:**

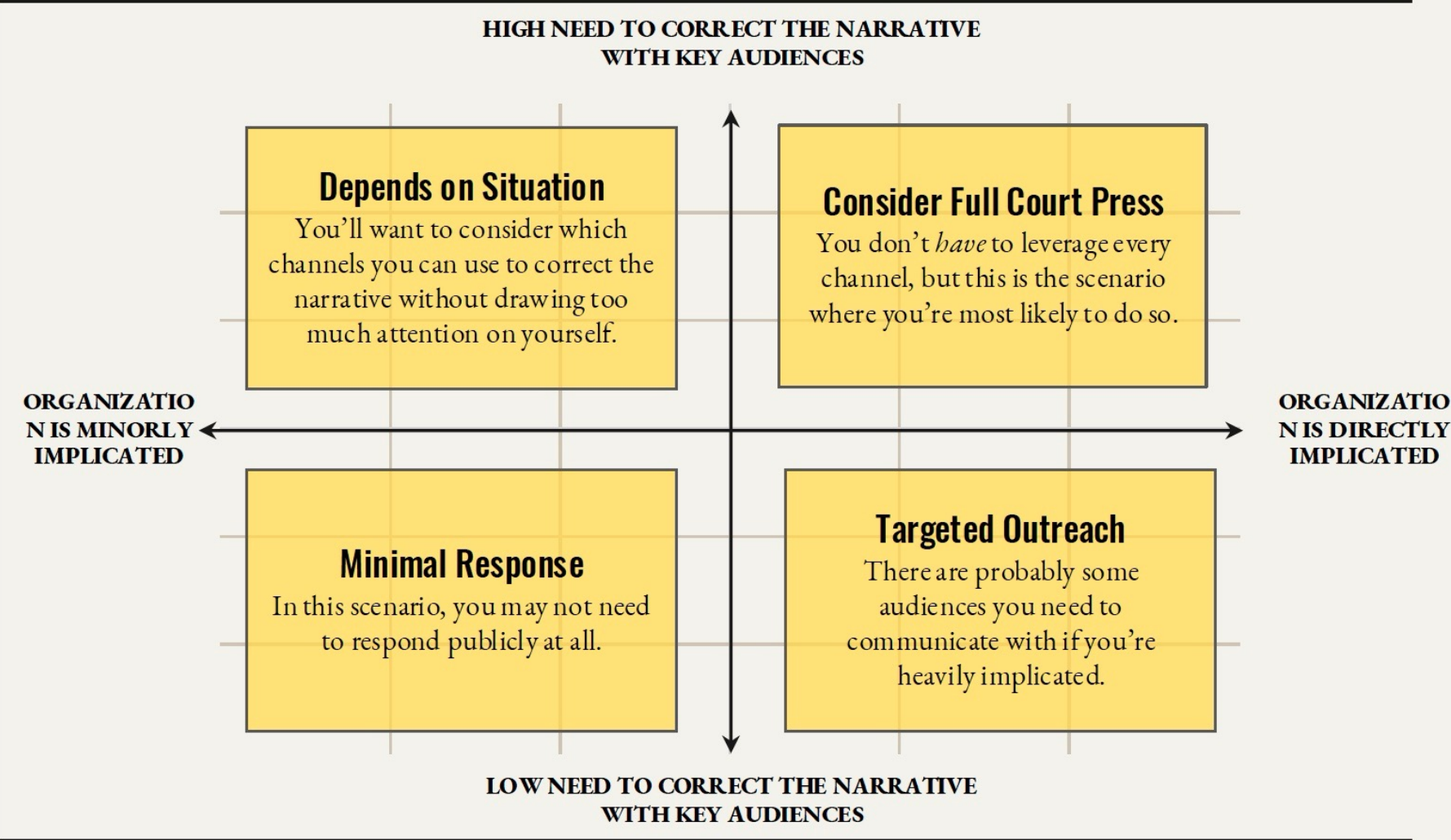
Highest risk level of  
crisis escalation

# TOOL 2: PUBLIC RESPONSE MATRIX

In a crisis scenario, it can be challenging to assess how public-facing an organization should be in its response, especially if a public response risks drawing unwanted attention. This chart is a starting point to make that decision, but is not the only factor you should consider in your decision making.

The x-axis considers how directly your organization is implicated in the crisis. That will impact how much others are looking to your organization for a response.

The y-axis represents how much your organization needs to shift the public narrative in a crisis — *with key audiences in particular*. This asks us to consider if there is a prevailing narrative that needs to be counteracted.





# TOOL 3: STRATEGIC GROUNDING QUESTIONS

- What do we need to achieve with a response?
- What do we not know?
- What needs to (and can be) shared?
- Which audiences need to know? In what order?
- Who is doing the sharing?
- How is the information being shared and why?
- Have we considered that what we say in this moment may actually draw more of a crisis? Are we prepared for the response to our response?

# TOOL 4: YOUR CRISIS CHECKLIST

## ☐ 1. ESTABLISH AND CONVENE A TASK FORCE

Moving quickly in a crisis is essential and a dedicated team helps streamline decision-making. Identify who should be on the Task Force (typically CEO/ED, comms, strategy, and key messengers). Each member should have a clear, dedicated role.

## ☐ 2. CLARIFY YOUR GOAL

Reflect on and define the desired outcome of your response — how do you want your organization to show up in this moment?

## ☐ 3. CLARIFY YOUR AUDIENCES

Identify and determine who your priority audiences are in responding to this crisis — who do you want to reach/persuade? Don't forget the importance of internal audiences — talking to staff, board, and partners.

## ☐ 4. DETERMINE YOUR MAIN MESSAGES

Clarify and align on the core messages you want to communicate to your priority audiences. Draft clear, concise topline messages or talking points that convey those takeaways.

## ☐ 5. DETERMINE DISTRIBUTION

Identify and evaluate the most effective channels for delivering messages to priority audiences — such as media, social platforms, targeted email, 1:1 phone calls, etc.

## ☐ 6. EXECUTE

Put your plan into action.

# Let's Discuss

---



# Thank You to Our Panelists!

---



**Ritu Mahajan Estes**  
Directing Attorney  
Public Counsel



**Crystal Crawford**  
Senior Director of  
Strategic Partnerships  
Weingart Foundation

The logo for RALLY, consisting of the word "RALLY" in a bold, black, sans-serif font, centered within a solid yellow rectangular box.

**RALLY**

**Felix Schein**  
President, Los Angeles  
RALLY



# Thank You for Attending!

---

## *The New McCarthyism: Preemptive Obedience & the Threat to Nonprofits*

All registrants will receive a recording of today's webinar and the accompanying PowerPoint slides.

If you have further questions, please reach out to:

[events@calnonprofits.org](mailto:events@calnonprofits.org)

[www.calnonprofits.org](http://www.calnonprofits.org)



# Upcoming Events

---

- **Wednesday, June 11, at 11:00am**  
**2025 Nonprofit Compensation Survey Webinar:**  
**Industry Trends & Salary Data**
- **Thursday, June 26, at 11:00am**  
**Tax Issues for Nonprofits:**  
**Common Mistakes to Avoid**

# Contact Us

---



Geoff Green, CEO  
[Geoffg@calnonprofits.org](mailto:Geoffg@calnonprofits.org)

CalNonprofits  
[www.calnonprofits.org](http://www.calnonprofits.org)  
[membership@calnonprofits.org](mailto:membership@calnonprofits.org)  
[events@calnonprofits.org](mailto:events@calnonprofits.org)



# Attacks on Nonprofits

## A Tip Sheet on How to Prepare

**raben**

As civil society prepares for continuing threats from the Trump administration and some in Congress, we at Raben stand ready to support you. This document provides recommendations to help your organization prepare for these uncertain times.

### Stay Grounded in Your Mission

Remember your “why.” This preparation work is key, but your organization has important goals — stay focused on them and keep your mission moving forward. When at all possible, don’t allow these attacks to hinder the greater good you are doing in the world.

### Steady Yourself

It is easy to get overwhelmed by threats to our work and organizations. Remember that sometimes the chaos is the point. Take a deep breath, try not to panic at every news alert, and establish a system to help you organize your intake and output.

### Remind Yourself

Identify what aspects of your work make you a target. Why do you do it? Who are you helping? What is your core mission, and what are your core values? Understand what you are defending, what you are giving up if you choose not to defend it, and what you are giving up if you choose to defend it.

## Assess Yourself

You can address your feelings of generic dread and fear by identifying specifically what you are afraid will happen, assessing the likelihood of that happening, and thinking through, in advance, how you can either minimize that threat or how you will respond if that threat comes to pass. Avoid the temptation to be too broad in your assessment. The power of this exercise lies in identifying specific harms and corresponding remedies.

## Audit Yourself

You know more about your organization than anyone else. You know your problem areas, your past foibles, the skeletons in your closet. Take the time to do spring cleaning, identify those vulnerabilities, and look at yourself as if you were a target. Then decide which of those vulnerabilities you can or should address (like improving compliance hygiene or getting business insurance) and which require a judgment call (like removing or softening social media posts or altering programming).

## Orient Yourself

When responding to a crisis or a threat, people often start with “What should I do?” without asking the question, “What am I trying to accomplish.” You can’t decide what direction to go in until you know where you want to go. Take a moment to determine your goals, both in the long term and the short term. What does success look like for your organization at the end of these four years? What does success look like at the end of any particular government inquiry or threat? Once you decide that, you will know how to address the harms you have identified in the Assessment and Audit steps, and you will be better prepared to identify allies and enemies in the Alignment step.

## Align Yourself

Understand the landscape in which you are operating. Who are your allies? Who are your adversaries? Who can you trust to stand by you, and who do you want to stand by? Identify who you can work with, who you can’t, and the holes in your support system.

## Prepare Yourself

Use this moment to prepare specific documents and communications in advance of federal action. Think about how you want to communicate with leadership at your organization. Who do you need to reach and coordinate with quickly? We recommend setting up a phone tree for immediate communication and planning purposes. You can also prepare statements and outreach to your partners, members, mailing lists, and staff.

---

## Learn More

If you would like to speak further about how we can support you, please don’t hesitate to reach out to Sarah Bolton, managing principal of Government Affairs at Raben, at [sbolton@raben.co](mailto:sbolton@raben.co).



# **A SECTOR IN CRISIS:**

How U.S. Nonprofits and Foundations  
Are Responding to Threats



THE CENTER FOR  
EFFECTIVE PHILANTHROPY



# A SECTOR IN CRISIS:

## How U.S. Nonprofits and Foundations Are Responding to Threats

### Authors

Ellie Buteau, Ph.D.; Elisha Smith Arrillaga, Ph.D.; Seara Grundhoefer; and Christina Im

### Project Team

Elisha Smith Arrillaga, Ph.D.; Ellie Buteau, Ph.D.; Caroline Gasparini; Seara Grundhoefer; and Christina Im

### For More Information, Contact

Seara Grundhoefer  
Senior Analyst, Research  
(415) 541-0291  
searag@cep.org

### About The Center for Effective Philanthropy

CEP provides data, feedback, programs, and insights to help individual and institutional donors improve their effectiveness. We do this work because we believe effective donors, working collaboratively and thoughtfully, can profoundly contribute to creating a better and more just world.

CEP is a nonpartisan, tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. We do not endorse, support, or oppose any political party or candidate for public office. Our research, programs, and public communications are designed to advance our mission and serve the public interest without regard to partisan considerations.

### Acknowledgments

Support for this research was provided by the Conrad N. Hilton Foundation, the Houston Endowment, and the Prebys Foundation. This research also draws from CEP's Nonprofit Voice Project, which is funded in part by the Rita Allen Foundation and the McKnight Foundation.



The authors thank CEP's Phil Buchanan, Kevin Bolduc, Grace Chiang Nicolette, and CEP's Programming and External Relations team for their contributions, and Jay Kustka for his design of this report. We also want to thank the members of this study's advisory group for their input: Brita Blesi from the Houston Endowment, Rachel Huguet from the Hilton Foundation, Marselle Alexander-Ozinskas from the Hewlett Foundation, Julie Russell from the Missouri Foundation for Health, Dace West from The Denver Foundation, Mariane Asad Doyle from the Center for Nonprofit Excellence, Kara Young Ponder from the National Council of Nonprofits, Cathleen Clerkin from Candid, Stephanie Bazan from Generation SERVE, and Julie Butner from the Tarrant Area Food Bank.

This report is based on CEP's independent data analyses. CEP is solely responsible for its content, which does not necessarily reflect the individual views of the funders, advisers, or others named in this report.

For more information on CEP, please visit [www.cep.org](http://www.cep.org).

This work is licensed under the Creative Commons BY-NC-ND license.

© 2026 by the Center for Effective Philanthropy Inc. All rights reserved.

# CONTENTS

**5 INTRODUCTION**

**7 KEY FINDINGS**

**8 FINDING 1: Extraordinary Threats to the Nonprofit Sector**

Increased Demand for Services and Loss of Funding  
Financial Stability  
Threats to Ability to Operate

**17 FINDING 2: Foundations' Initial Responses**

Changes to Grantmaking and Payout Rate  
Providing Additional Forms of Assistance Beyond the Grant  
Foundation Leaders' Perceptions of Risk

**25 FINDING 3: Foundations' Role in Supporting the Nonprofit Sector**

Foundations' Responses Receive Mixed Reactions From Foundation Leaders  
Nonprofit Leaders Are Seeking More Action From Foundations

**32 CONCLUSION**

**33 METHODOLOGY**

# INTRODUCTION

Nonprofits and philanthropies in the United States are facing historic challenges.<sup>1</sup> Sweeping cuts to federal government funding have left nonprofits reeling nationwide, forcing many to make difficult reductions to their staffing and programming — often simply to keep their doors open and their communities safe.<sup>2</sup> At the same time, demand for nonprofits' services has increased dramatically — far beyond even what nonprofit leaders reported during the outset of the COVID-19 pandemic.<sup>3</sup>

Many leaders are rallying to defend the nonprofit and philanthropic sectors and communities they serve. Foundations are signing pledges in support of fundamental freedoms to give and speak freely.<sup>4</sup> They are using their grantmaking, resources beyond grants, and their voices and platforms to respond.<sup>5</sup> Nonprofits are engaging in creative collaborations and using strategies such as litigation to build and exercise collective power to protect both the sector and the people and communities they seek to serve.<sup>6</sup> Despite these efforts, nonprofit leaders overwhelmingly noted in research we conducted in February 2025 that the current context is negatively affecting their organizations — and they are seeking additional support from their foundation funders.<sup>7</sup> Given this, the Center for Effective Philanthropy (CEP) sought to gain an updated, comprehensive, and current understanding of what nonprofits and foundations are experiencing in the current context, and how they are choosing to respond, exploring these questions through surveys and interviews conducted in August and September of 2025:

- ▶ How are nonprofit and foundation leaders affected by the current context?
- ▶ What challenges are funders facing in this environment?
- ▶ What do nonprofits seek from their foundation funders during this time?
- ▶ How can foundation funders most effectively support nonprofits?

Foundation leaders, if you are interested in sharing a summary of this research with your board, please see our board book insert resource [here](#).

<sup>1</sup> "Executive Actions Impacting the Philanthropic & Nonprofit Sectors," United Philanthropy Forum, September 2025, <https://www.unitedphilforum.org/resources/executive-actions-impacting-philanthropic-nonprofit-sectors>.

<sup>2</sup> Stephanie Beasley, "Nonprofit Leaders Face Tough Choices on Staffing, Fundraising as Federal Cutbacks Continue," *Chronicle of Philanthropy*, May 28, 2025, <https://www.philanthropy.com/news/nonprofit-leaders-face-tough-choices-on-staffing-fund-raising-as-federal-cutbacks-continue/>; Laura Tomasko et al., "How Government Funding Disruptions Affected Nonprofits in Early 2025" (Washington, DC: Urban Institute, 2025), <https://www.urban.org/research/publication/how-government-funding-disruptions-affected-nonprofits-early-2025>.

<sup>3</sup> Hannah Martin, Kate Gehling, and Ellie Buteau, "Persevering Through Crisis: The State of Nonprofits" (Cambridge, MA: Center for Effective Philanthropy, 2021), [https://cep.org/wp-content/uploads/2021/06/CEP\\_Persevering-through-Crisis\\_2021.pdf](https://cep.org/wp-content/uploads/2021/06/CEP_Persevering-through-Crisis_2021.pdf).

<sup>4</sup> "Stand With Us for Philanthropy," Council on Foundations, <https://cof.org/page/stand-us-philanthropy>.

<sup>5</sup> Phil Buchanan, Molly Heidemann, and Kevin Bolduc, "A Wave Forming? Funders Taking Action in Response to a Challenging Context," Center for Effective Philanthropy, March 25, 2025, <https://cep.org/blog/a-wave-forming-funders-taking-action-in-response-to-a-challenging-context/>.

<sup>6</sup> "National Council of Nonprofits and Nationwide Coalition Sue to Protect Food Security for Millions as Trump Administration Refuses to Use Available Funds," National Council of Nonprofits, October 30, 2025, <https://www.councilofnonprofits.org/pressreleases/national-council-nonprofits-and-nationwide-coalition-sue-protect-food-security>.

<sup>7</sup> Center for Effective Philanthropy, "Challenging Times: How U.S. Nonprofit Leaders Are Experiencing the Political Context" (Cambridge, MA: Center for Effective Philanthropy, 2025), [https://cep.org/wp-content/uploads/2025/03/CEP\\_Research\\_Snapshot\\_Series\\_Challenging\\_Times.pdf](https://cep.org/wp-content/uploads/2025/03/CEP_Research_Snapshot_Series_Challenging_Times.pdf).

## TERMINOLOGY

Throughout the report, we use the term “current context.” By current context, we mean the series of events led by the U.S. federal government — including legislative actions, executive orders, and budget decisions — that went into effect in 2025 with the potential for wide-ranging effects on nonprofits’ funding and work. During data collection, this definition was provided to all survey respondents and those interviewed for the study.

## SIZES AND TYPES OF RESPONDING ORGANIZATIONS

Nonprofit organizations participating in our survey are representative of all U.S. nonprofits that receive funding from private foundations that give \$5 million or more annually. At the median, staff size was 13 staff members, annual expenses were \$1.7 million, and annual revenue was \$2 million, according to information obtained from Candid the year of the survey sample’s creation (2024). The most common focus areas among responding nonprofits are human services, education, and social justice, and the nonprofits’ geographic locations are distributed almost evenly across the four U.S. census regions.<sup>8</sup> Certain organization types, including hospitals, universities, and some religious organizations (e.g., churches), were excluded from the research to ensure consistent interpretation of the data. (See full methodology [here](#) for more information.)

This study also includes a survey of all independent and community foundations that give \$5 million or more annually. Most commonly, responding foundations fund in the areas of education, human services, and health. The median responding foundation has eight staff members, \$12 million in annual giving, and \$187 million in assets, according to the most recent available year of financial information in Candid’s online Foundation Directory or CEP’s internal contact management software. These foundations fairly equally represent all four U.S. census regions. Corporate foundations and intermediary funders, among others, are excluded from the research. (See full methodology [here](#) for more information.)

<sup>8</sup> U.S. Census Bureau, “Census Bureau Regions and Divisions With State FIPS Codes,” [https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us\\_regdiv.pdf](https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf).



# KEY FINDINGS

## FINDING 1

Nonprofit leaders see this as a time of existential threat to their organizations and the communities they serve as they face both increased demand for their services and significant cuts to their funding.

## FINDING 2

Many foundation leaders recognize the high stakes of the current context for nonprofits and have made changes to their grantmaking and processes in response.

## FINDING 3

Many foundation and nonprofit leaders believe that foundations have an even larger role to play in supporting nonprofits during this time, and many suggest that foundations could and should be doing more.





# **FINDING 1**

## **EXTRAORDINARY THREATS TO THE NONPROFIT SECTOR**



**Nonprofit leaders see this as a time of existential threat to their organizations and the communities they serve as they face both increased demand for their services and significant cuts to their funding.**

The current context has led to unprecedented challenges for nonprofits. Organizations report greater demand for their programs and services, while at the same time experiencing significant government funding cuts, increased strain on their staff, and decreases in funding from private philanthropy. Consequently, many nonprofit leaders are concerned about if — and how — their organizations will continue to operate.

**INCREASED DEMAND FOR SERVICES AND LOSS OF FUNDING**

As a result of the current context, nearly two thirds of nonprofit leaders report increased demand for their services, and an additional 16 percent of nonprofit leaders anticipate that they will experience greater demand for their organization’s work.<sup>9</sup> In interviews with CEP, more than half of nonprofit leaders (56 percent) also indicate that the current context has had significant impacts on direct service provision or people’s ability to access direct services. “We’re starting to see more youth that are saying that they’re hungry, and we’re also noticing that access to food stamps and other things are getting harder for this population to get to,” says one nonprofit leader. “Because of their age and because of their lack of resources, our population is extraordinarily at risk and extraordinarily vulnerable.” Another leader echoes this, saying: “We have a food pantry, and we have seen more use of our food pantry than at any other time in our organization’s history. So we’re just seeing increased need and increased anxiety across the board — with everyone that we work with.”

In addition to more demand for programs and services, most nonprofits report significant cuts to their funding in 2025. As a result of changes in the current context, the majority of nonprofits — nearly 70 percent — report experiencing reduced funding from at least one source, whether it be the government, a foundation, or an individual (see Figure 1).

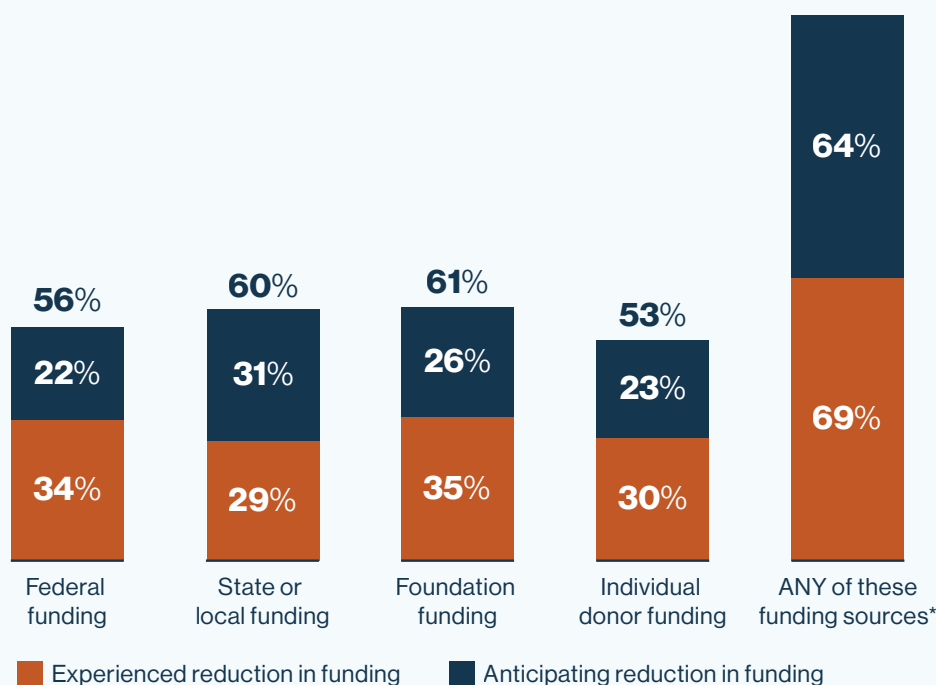
**Stepping Up for the Nonprofit Sector .....**

*"If a nonprofit comes to me and says they have some sort of unusual or unexpected funding need, I will take that information, and I will email it out to a list of all the donors I know in the community. Whether they work through us or not, they're just people I know who are pretty active donors. And so I've done that more this year, because more nonprofits have come to me saying, 'Oh my god, we just lost this grant. What can we do?' I can distribute information about your situation to other donors. That's a way of helping to spread the news about what's happening with our local nonprofits and to help them try to get funding from other sources, because we don't have extra funding for them. And I know there are plenty of people who I've emailed information to that have thanked me for that because they didn't know what was going on, and they have responded and made donations to those nonprofits."*

*– Foundation Leader*

<sup>9</sup> To put this figure into context, when CEP asked nonprofits in February 2021 whether they had experienced an increase in demand for their services in 2020 — during the COVID-19 pandemic — relative to the year prior, 50 percent said they had. Therefore, the proportion of nonprofits expecting or already experiencing increased demand for their services in 2025 is far beyond what CEP saw nonprofits experiencing during the pandemic. Martin, Gehling, and Buteau, “Persevering Through Crisis: The State of Nonprofits.”; Of note, organizations that intend to serve primarily individuals from lower income communities, as well as organizations that focus on human services, are slightly more likely to have experienced increased demand for services in 2025.

**FIGURE 1. Nonprofit Funding Cuts by Funding Source as Result of Current Context** (N=404-406)



\*Note: This bar adds up to more than 100 because percentages reflect the total number of respondents who lost or anticipate losing funding from any of the sources shown in the figure.

Nearly a third of nonprofit leaders report that, due to the current context, their organizations had to reduce the services they provide. Many of these leaders also report having to decrease the number of staff at their organizations.<sup>10</sup> A leader working in human services notes that the full ramifications of nonprofits having to meet increased demand with already strained capacity will not be clear for some time:

We received an unexpected 40 percent cut to prevention services that we already had a waitlist for. We had to let a staff member go. Big reductions to prevention services are going to put a lot of families in crisis over the edge. We will see the effects of this in six months to a year when there are more children in foster care. That will weigh on the system, the economy, individual communities, and, most importantly, on families.

While funding cuts are being experienced by nonprofits of varying sizes, geographies, and program areas, there are differences in the scale of organizations' funding losses according to their leaders' identities.<sup>11</sup> Regardless of organization size, nonprofits led by people of color are more likely to have lost more than 10 percent of their budget in state or local funding cuts in 2025.<sup>12</sup> Organizations led by women are slightly more likely to have lost more than 10 percent of their budget in federal cuts. LGBTQ+-

<sup>10</sup> Organizations that focus on human services are slightly more likely to have reduced staffing in 2025.

<sup>11</sup> We did not find meaningful differences in funding cuts (from any source) by size, geography, or program area of responding nonprofits.

<sup>12</sup> Organizations that focus on immigrants and refugees, as well as on the environment and animals, are also slightly more likely to have experienced (federal) funding cuts in 2025 compared with organizations that focus on other program areas.

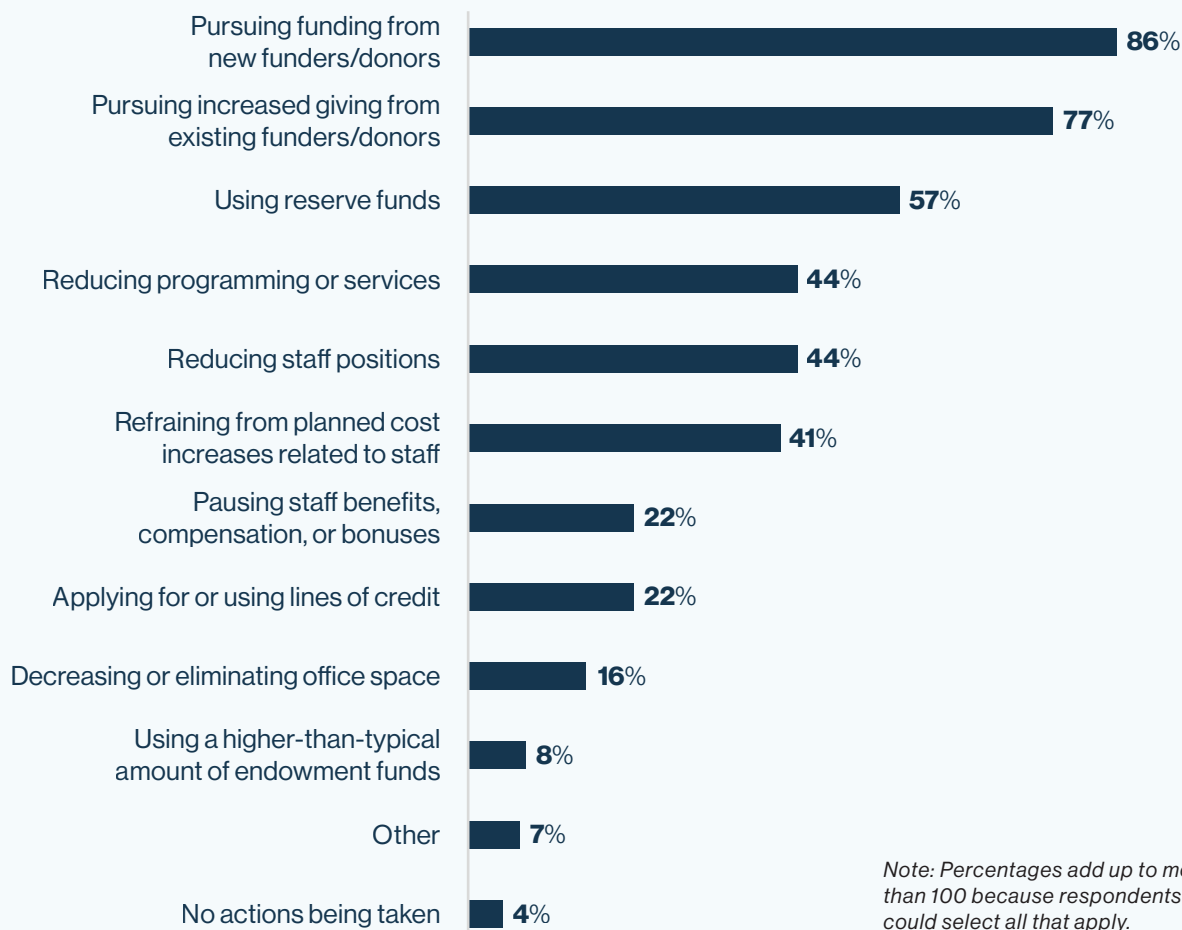
identifying leaders are also slightly more likely to have experienced funding cuts — whether from government, foundation, or individual donation — than their counterparts.<sup>13</sup>

## FINANCIAL STABILITY

Nearly three quarters — 71 percent — of nonprofit leaders are concerned about their organization's financial stability, and the vast majority attribute these concerns at least somewhat, if not mostly, to the current context. “Approximately 80 percent of our revenue is federal funds. Last year, we were already anticipating facing the fiscal cliff because of the end of COVID funding. Our revenue last year was about \$17 million; it’s about \$10 million this year. I’m working on next year’s budget, and if we lose the federal funds we have, we’ll be down to probably \$4 million,” says one leader.

In response to these financial challenges, nonprofit leaders are already taking, or are considering taking, several actions. Most commonly, leaders report looking into securing funding from new funders and donors, seeking increased giving from their existing funders and donors, and using reserve funds to fill funding gaps (see Figure 2).

**FIGURE 2. Actions That Nonprofits Have Taken or Are Considering Taking in Response to Funding Cuts (N=408)**



<sup>13</sup> All of these results remain the same when controlling for the size of the nonprofit leader's organization, measured in total annual expenses.

## THREATS TO ABILITY TO OPERATE

Most nonprofits interviewed indicate that the current context poses a significant threat to their organization's continued existence and ability to provide essential programs and services. More than two thirds of nonprofit survey respondents also indicate that the current context has had a negative impact on their organization's ability to carry out its work. "The stakes are that we might not make it as an organization," one leader simply states.

Ultimately, due to challenges with demand, funding, and continued operations, many nonprofits are having to make hard decisions to ensure their organizations make it through the current moment. As one nonprofit leader emphasizes: "We want to be able to come out of this. We won't be unscathed, because it's already affecting us, but we're trying to make the best decisions possible so that we will continue to exist in the future." Despite these challenges, in interviews, many nonprofit leaders state that they remain resolute in their work and mission, saying that they are "not going to be intimidated on what we believe is the right thing to do and how to treat people." As one nonprofit leader explains: "Our work to support racial justice is explicit, and we will continue to do it explicitly, and we will continue to do it visibly."

*Many nonprofit leaders state that they remain resolute in their work and mission, saying that they are "not going to be intimidated on what we believe is the right thing to do and how to treat people."*

### Stepping Up for the Nonprofit Sector .....

*"Literally why we exist is to serve people and make them healthier, especially those who have been most underinvested in and who face the steepest climbs. And so, it's incumbent on us to center them in all of our decision-making. For us, that looks like two things. We're [a small staff] serving the whole state, so I can't pretend that we are authentically engaged across all communities and hear those voices, but we're trying to use our comms department to elevate the voices of communities rather than our own voice. We ask community-based organizations to really speak for the communities that they're embedded in. It takes a long time to do that, but it all goes back to, how do we elevate community voice ourselves? And then how do we honor community voice in the decisions that we make? Because they're the ones who are ultimately being affected."*

– Foundation Leader



## WHAT'S AT STAKE: IMPACTS ON THE COMMUNITIES NONPROFITS SERVE

In interviews, 70 percent of nonprofit leaders report that the current context is jeopardizing their community members' access to basic needs. In survey responses, leaders reiterate this concern:

“ The draconian cuts to the SNAP program will send more people to our food bank lines at a time when [the federal government] has reduced the amount of food we receive and the amount of money we are reimbursed for providing that food to our public.

“ Direct attacks on people with disabilities and programs and services that help people to be able to maintain their health, safety, and even lives. People with disabilities have always been devalued, but, in 2025, this has been shockingly awful. The impact isn't just on people with disabilities; it affects families and communities.

“ Survivors of color are not coming forward for fear of ICE raids; survivors are feeling abandoned and isolated as every day there's a headline about this administration's values around domestic violence and sexual assault. All the cuts and changes ... to community benefits and resources (SNAP et al.) will cause many victims to never leave their abuser/trafficker or return to them, as they will see no way out.



“ There is tremendous fear for employee and client personal safety and the security of LGBTQ+ rights and opportunity. Institutions are turning their back on our community and eliminating or reducing access to services — and funding to community-based organizations that provide vital services to LGBTQ+ people — exactly at the time when the need for support is increasing.

“ For the work we do around the environment, we hope that people will care about threats to public spaces/access and clean drinking water issues. But when other life-threatening issues arise, the environment usually gets put aside so that people can focus on survival. The organizational chaos, funding cuts, and regulatory rollbacks will cause damage to our waters and land that will be, in many cases, impossible to reverse.

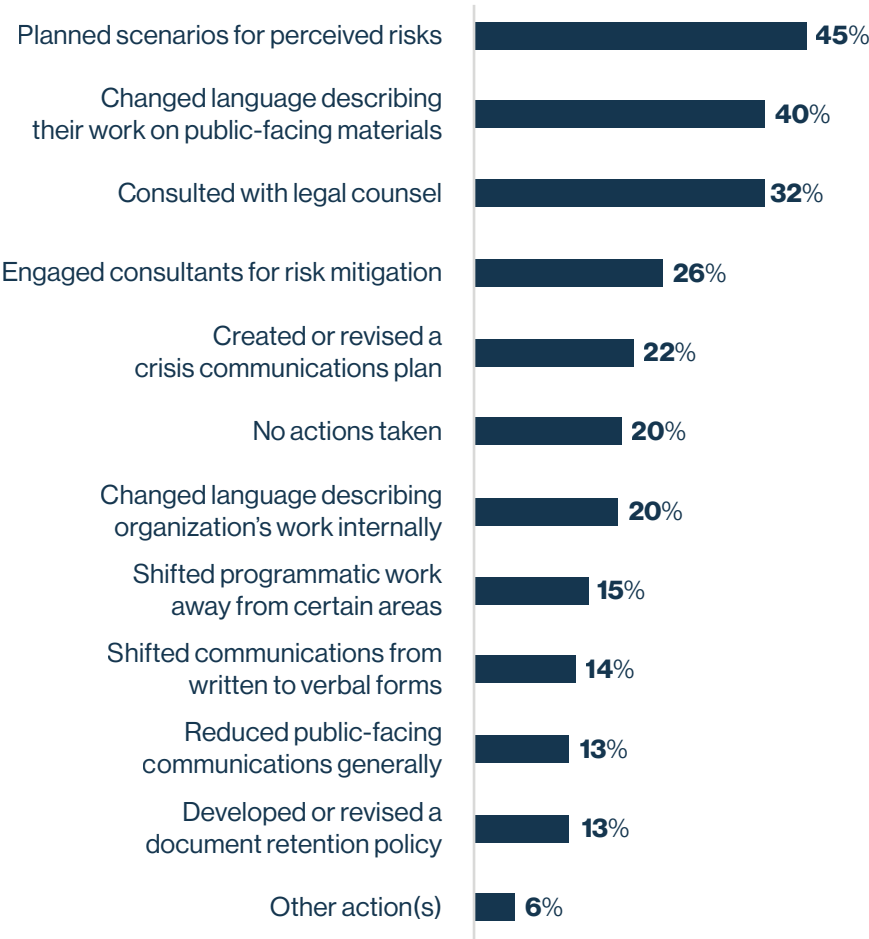
“ The work that we do matters, and is life changing, and sometimes life giving, and sometimes is the matter of life and death for [those] that we’re working with, and, if we weren’t here to do it and with practices and care around reciprocity and respect that are so important to our work, it’d be a huge loss.

“ I think there is a huge sea change in how this administration sees Medicaid and the value of it. And the people who receive Medicaid, I think, are seen as not really worthy people. Why should they get this thing that we pay for? [They are] really misunderstanding a huge amount of what public health is all about.

NONPROFITS ARE THINKING CREATIVELY ABOUT THE FUTURE

In response to the risks posed to their organizations, nonprofits are exploring several options to ensure they can continue to operate and provide important — sometimes essential — programs and services. The most common actions being taken by nonprofits to mitigate risks posed by the current context include: 1) planning for different scenarios for perceived risks, 2) changing public-facing language describing their work, and 3) consulting with legal counsel. (See Figure 3.)

**FIGURE 3. Actions Nonprofits Have Taken To Mitigate Risks Posed by the Current Context** (N=397)



*Note: Percentages add up to more than 100 because respondents could select all that apply.*

Some nonprofit leaders talk about their organization being flexible and proactive in planning for the future. “One of the things that I’ve really tried to reinforce with my development team is that we’re not looking at just the next three years potentially,” explains one leader. “But [also], what do the next four to five years look like? And then, strategically, how do we prepare for that?”

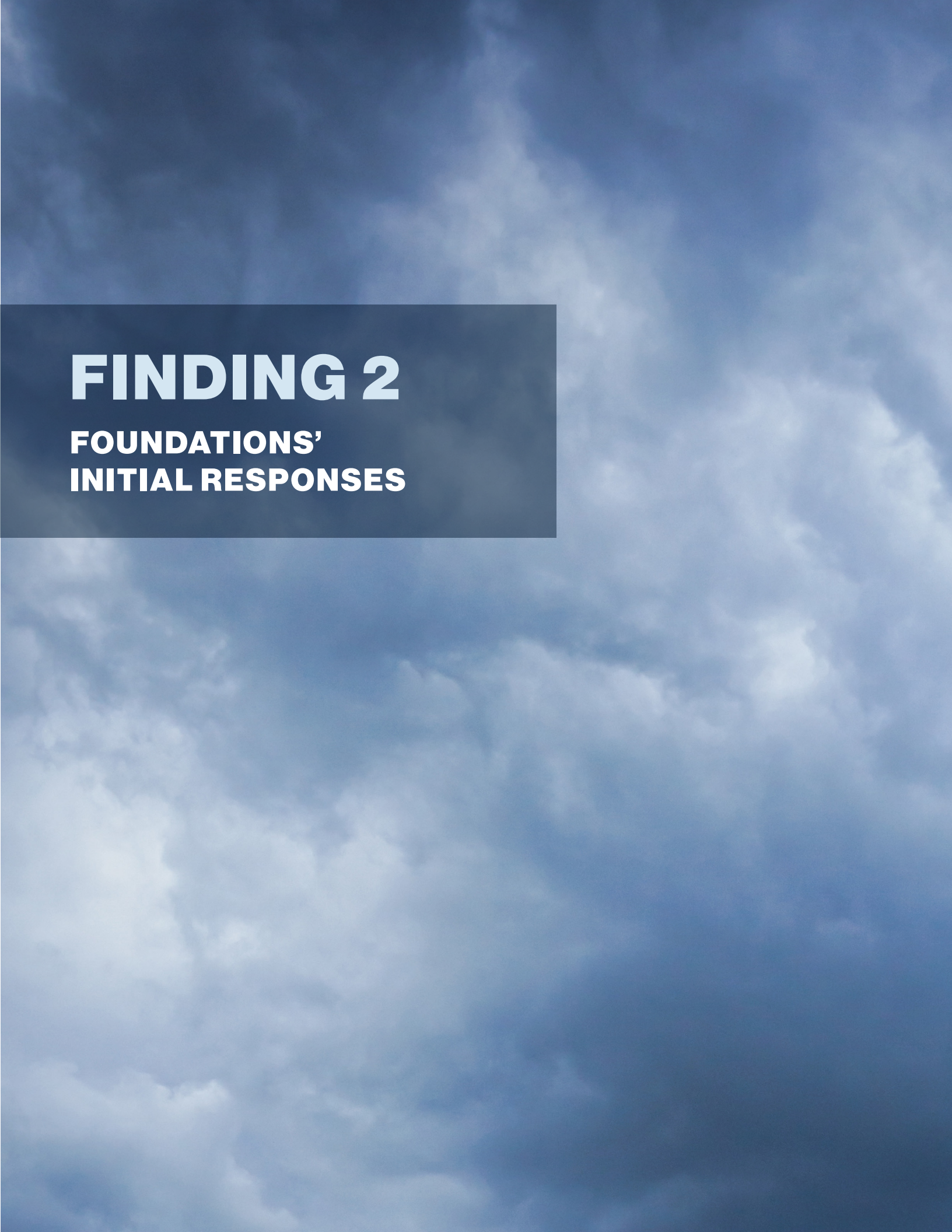
Other leaders report that they have scrubbed their website of any language that may put their organization, their staff, or their funding at risk. “Our whole business is girls and women. So sometimes we might change language to read youth or young people or community or family, instead of specifically referencing girls and women, which is really hard because it’s our whole business — it’s in our name.”

Additionally, just over half of nonprofits interviewed proactively raise the need to adapt to a new operating environment and funding landscape as a result of the current context. Nonprofit leaders speak of “thinking outside of our normal funding streams” and understanding “what our options are to make sure that this work still continues even if we do not have our 501(c)(3) statuses.” When needs for extra funding or other resources arise, nonprofit leaders say that they are “thinking about, before we go outside of our own ecosystem, how we circulate money within ourselves” and note that “some of this coalition building has turned into collective fundraising. Making one ask rather than eight organizations asking for the same thing.”

Nonprofit leaders of color are not only slightly more likely to say that the current context poses moderate to significant risk to their organization but are also slightly more likely than their counterparts to have moved their work away from public view in response to the current context.<sup>20</sup>

<sup>20</sup> These statistical relationships are of small effect size.





# **FINDING 2**

## **FOUNDATIONS' INITIAL RESPONSES**

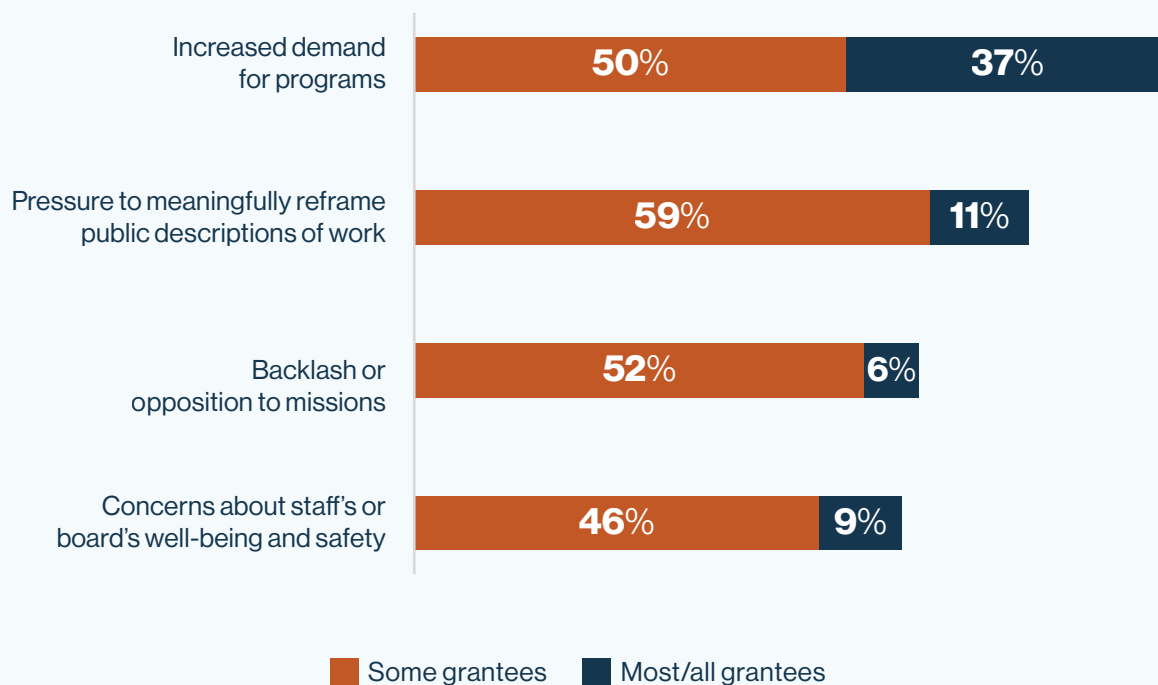
## Many foundation leaders recognize the high stakes of the current context for nonprofits and have made changes to their grantmaking and processes in response.

In contrast to the experiences of nonprofits in the current context, foundations report experiencing more moderate adverse effects. Just over half (55 percent) of the foundation leaders CEP surveyed indicate the current context has had a negative effect on their foundation's ability to make progress toward their goals. Few foundation leaders (nine percent) believe the current context presents significant risk to their foundation being able to operate freely, and only 11 percent of foundation leaders report having experienced backlash or opposition to their foundation's mission.

*Few foundation leaders believe the current context presents significant risk to their foundation being able to operate freely.*

Foundation leaders are aware that the nonprofits they fund face a very different reality. While these leaders believe risk to their own foundations due to the current context is low, they recognize pressures are quite different for the nonprofits they fund (see Figure 4).

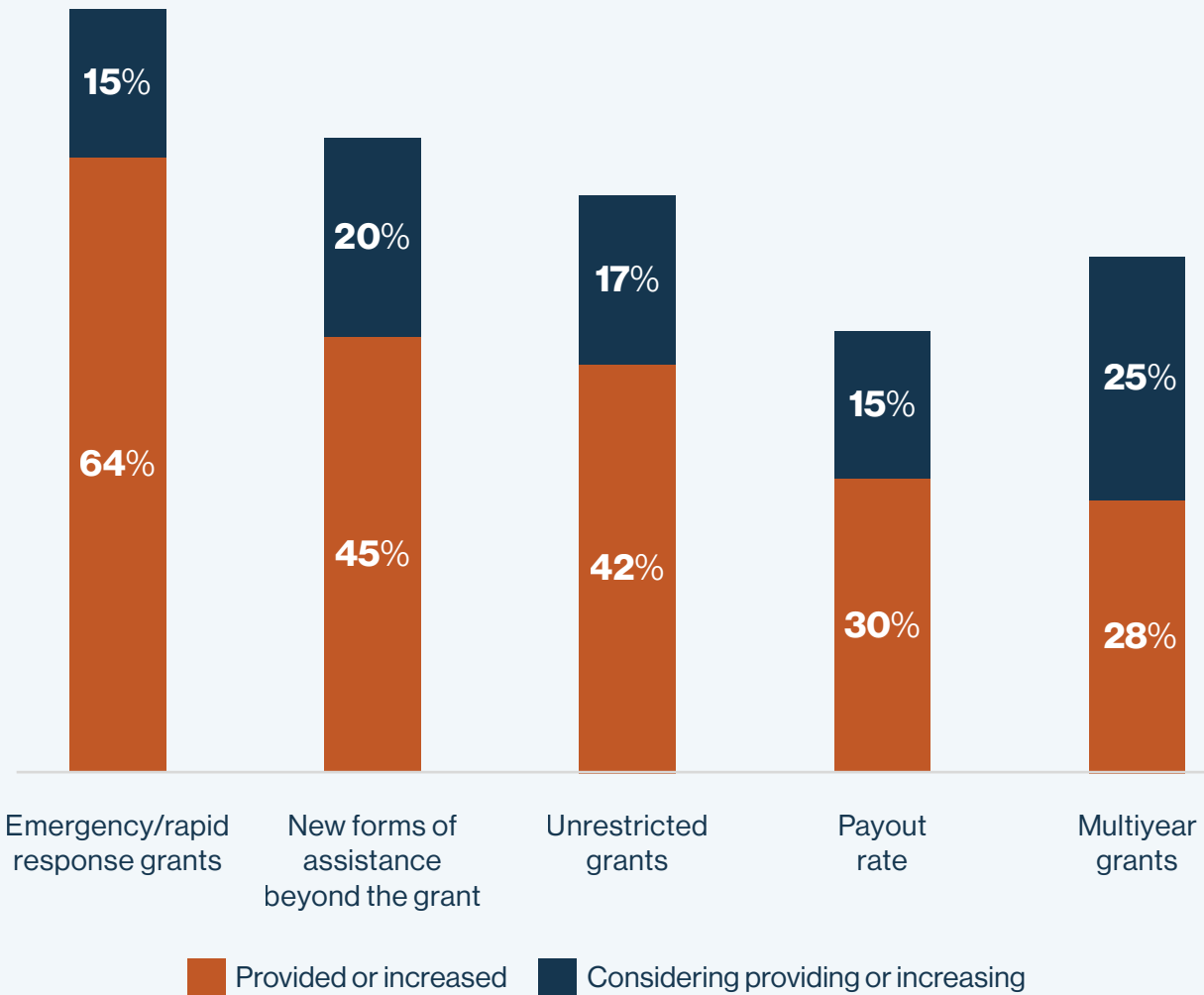
**FIGURE 4. Foundations' Awareness of Effects of Current Context on Grantees in 2025** (N=222-223)



CHANGES TO GRANTMAKING AND PAYOUT RATE

Foundations have responded to the crises that nonprofits are facing in a variety of ways (see Figure 5).

**FIGURE 5. Changes to Foundation Practice in Response to Current Context**  
(N=216-222)



The most common response has been to provide emergency or rapid response grants. Nearly two thirds of foundations report providing emergency or rapid response grants to nonprofits in response to the current context, and an additional 15 percent are considering doing so.<sup>14</sup> Foundation leaders describe taking actions to give “\$1 million in rapid response funding to our current grantees” and “unlock \$5 million in emergency funds in addition to our regular budget.” One foundation leader reports that their foundation “reserved a portion of the grantmaking budget for emergency funding for organizations that either suddenly lost significant federal dollars or are not necessarily strategically aligned but are providing essential services.”

<sup>14</sup> Foundations that give more than \$12.2 million annually (the median amount of annual giving in CEP’s survey of foundation leaders) are slightly more likely to have provided emergency grants in response to the current context in 2025.



Almost a third of foundation leaders report increasing their organization's payout beyond what was originally planned for 2025 (see Figure 5).<sup>15</sup> At the median, this increase was two percent of endowment value. An additional 15 percent of foundation leaders report considering increasing their payout. One leader whose foundation increased payout in 2025 explains how they approached the issue with their board of directors:

I think, for any organization, how you show up in moments of challenge really defines you. That was one of the rationales we went to with our board. Yes, five percent is a floor. But it's always been set at five percent. Our framework and criteria for when we consider giving more should not just be when we're able to. It should be based on the needs of the community. First and foremost, we are here to serve the community.

In interviews, more than one third of foundation leaders express wanting their board of directors to support making more money available to address nonprofit and community needs in the current context, rather than focus on growing the foundation's investments. Leaders are seeking "more urgency to spend money now," arguing that "we're in a very serious situation for our mission and just business as usual is not what's called for." Regarding discussions with their board, one foundation leader says, "In general, we could shift the center of gravity in terms of our balance of protecting our investment in the value of our endowment versus the need to react. I think the center of gravity is maybe a little bit closer to protecting our own resources than I would put it."

More than 40 percent of foundation leaders report increasing unrestricted giving due to the current context (see Figure 5).<sup>16</sup> Just under 30 percent have increased multiyear grants in 2025.<sup>17</sup> An additional 17 percent of foundations are considering increasing unrestricted grants, and a quarter of foundations are considering increasing the number of multiyear grants they provide.

In interviews, foundation leaders spoke of providing a "series of immediate unrestricted grants to organizations that are led by and serving some of the communities and constituencies that we saw as most under attack" and giving grantee organizations the option of converting restricted funding to unrestricted, saying, "If the funding you have received from us that was restricted, if you need to change the purpose for that funding, just let us know." Some leaders are still working toward providing greater flexibility. As one explains: "I would like to see us moving more multiyear general operating support in this time. I've had a little bit of success on that. There are some grants that I've been able to move from one year to two or from two to three. But I would actually like to see more flexibility for our partners."

<sup>15</sup> CEP's data indicate that a smaller proportion of foundations stepped up grantmaking in 2025 than in 2020 — in "Foundations Respond to Crisis: A Moment of Transformation?" (Naomi Orensten and Ellie Buteau, <https://cep.org/report/foundations-respond-to-crisis1/>), a report released in 2020 during the COVID-19 pandemic, CEP found that the majority of foundations said they would increase their grantmaking beyond what was originally budgeted for the year, compared with the less than a third of foundations that have increased payout in response to the current context in 2025. This is despite that, in 2020, the federal government infused funds into nonprofits through the Paycheck Protection Program, and, in 2025, many nonprofits have experienced significant federal, state, and local funding cuts.

<sup>16</sup> In "Foundations Respond to Crisis: Towards Greater Flexibility and Responsiveness?" (Naomi Orenstein and Ellie Buteau, <https://cep.org/report/foundations-respond-to-crisis3/>), published in 2020 during the COVID-19 pandemic, CEP found that most foundations had changed their practices to be more flexible and responsive — loosening grant restrictions, providing more unrestricted funding, and reducing what they asked of grantees in reporting and application processes. In contrast, the survey described in this report about foundations' responses to the current context asked only about changes foundations made to grantmaking and processes in 2025. We do not have data to quantify how many foundations that made such changes during the pandemic have continued those changes to the current moment.

<sup>17</sup> Foundations that give more than \$12.2 million annually (the median amount of annual giving in CEP's survey of foundation leaders) are slightly more likely to have provided a larger number of unrestricted grants in 2025, in response to the current context, than they had prior to 2025.

Stepping Up for the Nonprofit Sector .....

“We’re limited in the kinds of unrestricted grants we can make, but our solution is to do 30 percent overhead for any grant we make. There is a call for unrestricted grants, but a lot of nuance gets lost on the way because there’s actually a spectrum of how you create more free capital within a grantee, and unrestricted grants are the most obvious way. I worry sometimes that folks are missing the more nuanced picture of the many ways you can do it. But the sexy way is unrestricted. And the problem with that is, when that’s all you talk about, folks are like, ‘Well, I can’t do that, so I can’t do anything.’ And the answer is, no, no, no, there’s a lot of things you can do in terms of reducing strings or paying higher overhead or whatever it is.”

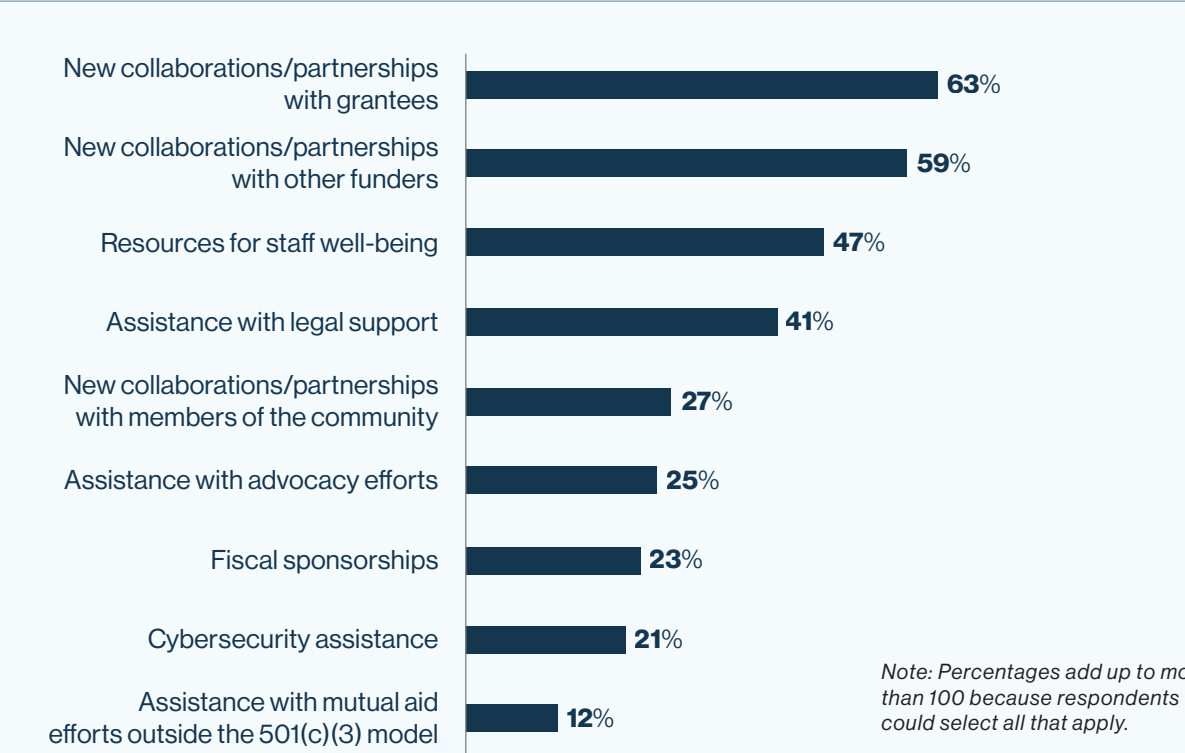
– Foundation Leader

Nearly 40 percent of foundations also report streamlining their application processes, and a similar percentage (38 percent) have streamlined reporting requirements for their grantees. “We basically backed away from reporting requirements,” says one funder, “so that grantees wouldn’t have to adhere to the reporting requirements if they wanted to just tell us over the phone how things were going. We wanted to give them as much flexibility as possible.”

PROVIDING ADDITIONAL FORMS OF ASSISTANCE BEYOND THE GRANT

More than 40 percent of leaders who responded to our survey indicate their foundation started providing new forms of assistance beyond the grant to grantees in response to the current context. The most common forms of new assistance are collaborations or partnerships with other nonprofits or funders, resources for staff well-being, and assistance with legal support (see Figure 6). One foundation

FIGURE 6. New Forms of Assistance Beyond the Grant Foundations Are Providing (N=99)



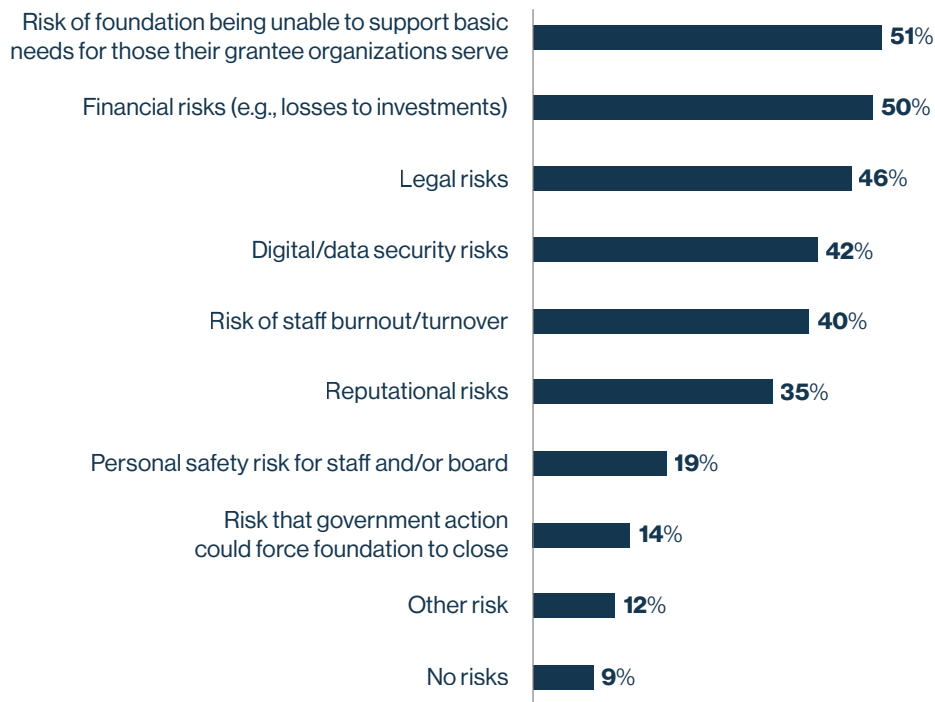
leader describes collaborating with “many of the organizations that are most directly affected” and that they’ve “had lots of conversations with the [communities we fund] about how they’re preparing for the changing funding landscape, and maybe how we could be helpful to them.” One funder explains the benefit of gathering their nonprofit partners together with experts from state offices, saying, “These were conversations they would have trouble securing themselves.” Another foundation leader describes “pulling together the major funders in our region” and “having a conversation about how we are collectively going to respond, because if we’re all doing our own thing, it’s not going to move the needle.”

Nearly half of funders who began new forms of assistance beyond the grant have chosen to provide support for nonprofit staff well-being. One foundation “issued small wellness grants to all of our grantees, to acknowledge the problem of burnout,” while another has “focused on building up leaders in our community — recognizing their talents and gifts — so they can meet this moment. Right now, this is just as important as money: seeing these leaders, affirming their worth, and letting them know we believe in them. It matters.”

FOUNDATION LEADERS' PERCEPTIONS OF RISK

Although most foundation leaders indicate that the overall risks that the current context poses for their foundation are not significant, they do express some concerns about risk. The most cited risks, each noted by about half of foundation leaders, are: 1) risk of their foundation being unable to support basic needs of those their grantee organizations serve and 2) financial risks (e.g., losses to investments). To mitigate risks, foundations have most commonly consulted with legal counsel. (See Figure 7.)

**FIGURE 7. Risks Foundations Are Most Concerned About in the Current Context** (N=226)



*Note: Percentages add up to more than 100 because respondents could select all that apply.*

## FOUNDATION SIMILARITIES AND DIFFERENCES ACROSS ISSUE AREA AND LOCATION

As CEP conducted this research, we learned that many foundation leaders are curious about different responses to the current context, both across the various issue areas foundations fund and across geographic regions of the United States.

### ISSUE AREA

Given the wide-ranging effects of the current context on nonprofits in a number of issue areas, foundations are taking varied actions in response based on the program areas in which they fund. Foundations funding in education demonstrated somewhat lower rates of making changes to grantmaking and processes in response to the current context. In 2025, they are slightly less likely to have:

- ▶ Increased payout beyond what was originally planned
- ▶ Provided a larger number of unrestricted grants than previously
- ▶ Streamlined application and reporting processes<sup>21</sup>

Conversely, foundations that fund social justice showed a somewhat heightened response to the current context. In 2025, these foundations are slightly more likely to have:

- ▶ Modified programmatic goals
- ▶ Changed programmatic strategies
- ▶ Provided emergency or rapid response grants
- ▶ Provided a larger number of unrestricted grants than previously
- ▶ Begun providing new forms of assistance beyond the grant

### LOCATION

Overall, foundations' experiences of and responses to the current context showed relatively little variation by their geographic location in the U.S. Only a few aspects of their responses differed by region. Specifically, foundations based in the West were somewhat more likely to have streamlined their application processes. Meanwhile, foundations based in the Midwest were more likely to have:

- ▶ Experienced concern about financial risks to their foundation
- ▶ Experienced concern about their ability to meet the basic needs of the communities that their grantees serve
- ▶ Streamlined their application processes

<sup>21</sup> The effect for streamlining of application processes is of a medium effect size. All other results for education funders are of a small effect size.





# **FINDING 3**

**FOUNDATIONS' ROLE  
IN SUPPORTING THE  
NONPROFIT SECTOR**

## Many foundation and nonprofit leaders believe that foundations have an even larger role to play in supporting nonprofits during this time, and many suggest that foundations could and should be doing more.

Most foundation leaders (81 percent) CEP interviewed believe that foundations have a significant role to play in supporting the nonprofit sector, and a similar percentage (more than 80 percent) believe that supporting communities is the primary role of foundations. Yet, among those leaders, there is a lack of agreement about the extent to which foundations are currently fulfilling that role.

Foundation leaders' views on how best to support the nonprofit sector in the current context include "trying to help nonprofits be strategic and funding collective advocacy efforts," as well as "defending the people that we're trying to help and putting our energy into the practitioners who are doing that." One foundation leader notes that, "We always want to keep in mind that the purpose of defending the sector is for the benefit of the end beneficiaries and stakeholders of the nonprofits we care about, and not for the existence of the sector itself."

However, approximately 20 percent of foundation leaders interviewed do not believe foundations have much responsibility to help nonprofits navigate the current context. One foundation leader who tried to put together a working group of foundations in their geographic area to respond to the current context details the negative response they received: "[We received] no interest. None. 'We're just going to wait and see how it all shakes out.' That's the line I keep hearing. It is shaking, people. Seriously. The earthquake is happening."

### Stepping Up for the Nonprofit Sector .....

*"I know every public health emergency when the government was dragging their feet and trying to make decisions and get money flowing, the nonprofit sector stepped up and did stuff and took care of crisis management, food, shelter, housing, those kinds of things. We looked to the nonprofit sector to help us out while the government was trying to figure it out. If we can lift up the nonprofit sector and demonstrate what their value is, then I think people might be interested in hearing about philanthropy, but I think our role is really to support the nonprofit sector. And we have an important role to play, and it is important for us to maintain our freedom of speech and ability, the freedom to give."*

– Foundation Leader

Another foundation leader, who does not believe foundations have a large role to play in supporting the nonprofit sector, says:

Regardless of this or any other shortfall, nonprofits have to understand that it's not the requirement of the foundation to make sure they have enough operational funding. If they try to grow beyond their means, it's just like household funding. You have to grow to an extent that you can take care of yourself. And don't expect somebody to give you money because you want it.

## FOUNDATIONS' RESPONSES RECEIVE MIXED REACTIONS FROM FOUNDATION LEADERS

More than 40 percent of foundation leaders interviewed are dissatisfied with the overall response from foundations and believe their peer funders could be doing more to help nonprofits and communities

weather the current moment. One leader questions the direction some foundations are moving, saying: “In this time I’ve really been questioning the value and utility of institutional legacy philanthropy. I see institutional philanthropy, which has never been the boldest of players, moving more and more towards so-called noncontroversial areas of work.”

Another foundation leader argues that, while a number of their peers have made changes, too many foundations have not. This leader suggests that this time offers an opportunity to be nimble and act more quickly:

I do think that a lot of funders understand the context and are changing their behavior and acting in different ways and realizing that the traditional model of philanthropy may not be relevant anymore. But it’s disappointing that maybe the majority doesn’t seem to be. And those are the folks who you wonder if it is about the community. Is it about what you’re doing or is it about you? Is all this just about you and your power and your legacy?

More than one third of foundation leaders — 35 percent — are skeptical that they even have the power to affect much change. One foundation leader questions how much philanthropy can do. “It’s not totally clear to me that foundations have that much power in our own voice to be directly fighting things,” the leader says. Another, unsure of what foundations can accomplish, says: “We know that there’s power in numbers, but I think there’s also a little bit of a — look, no one’s throwing in the towel, no one’s giving up — but I think there’s a little bit of a sense of, we don’t know what good it’s going to do.”

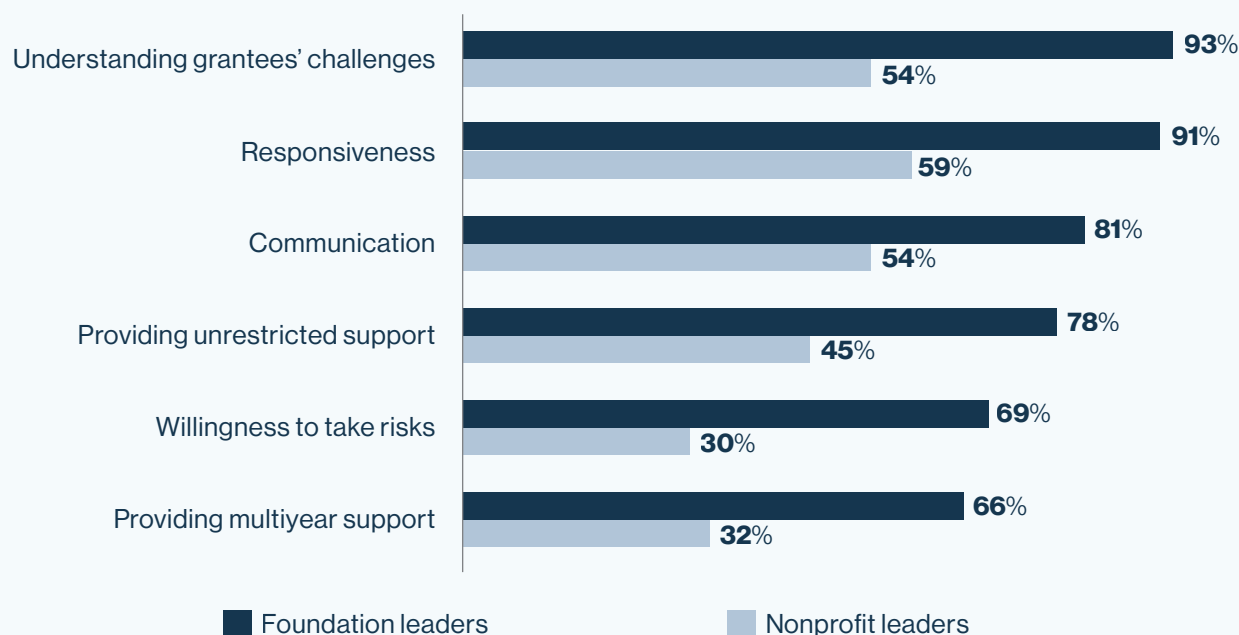
About 40 percent of foundation leaders express concern that foundation money cannot fill gaps left by changes in government funding. They worry about attempting to fill that gap, even temporarily, lest it be seen as an ongoing stopgap. As one foundation leader explains: “I think it’s about being honest with people — that, as horrific as some of these losses are, it’s not our job right now just to backfill that.” Another leader recounts a conversation with their board, saying: “Our board agreed that we were not going to replace lost federal funding because of the position being that we don’t believe it’s the role of philanthropy to do the role of government.”

*Foundation leaders believe their response to the current context has been more effective than nonprofits believe their funders’ responses have been.*

## NONPROFIT LEADERS ARE SEEKING MORE ACTION FROM FOUNDATIONS

Foundation leaders believe their response to the current context has been more effective than nonprofits believe their funders' responses have been (see Figure 8).

**FIGURE 8. Proportion of Leaders Rating Foundation Response to Current Context as Moderately/Very Effective (N=221-401)**



While 93 percent of foundation leaders believe their foundation has been effective in understanding the challenges their grantees are facing, only half of nonprofits report their funders have been effective in this way. This pattern of significant misalignment also applies to assessments of foundations' effectiveness when it comes to their responsiveness, communication, provision of unrestricted support, willingness to take risks, and provision of multiyear support in the current context.

This disconnect between what nonprofits are experiencing and what foundations believe to be happening is not unusual. However, when it comes to views on foundations understanding nonprofits' challenges, in 2014, CEP research found that funders and nonprofits rated similarly on foundations' level of awareness of nonprofits' challenges, as well as on foundations' use of their resources to address those challenges.<sup>18</sup>

<sup>18</sup> In a 2014 study that CEP published in the journal *Foundation Review* (Ellie Buteau, Mark Chaffin, and Ramya Gopal, "Transparency, Performance Assessment, and Awareness of Nonprofits' Challenges: Are Foundations and Nonprofits Seeing Eye to Eye?" <https://scholarworks.gvsu.edu/tfr/vol6/iss2/7/>), we found that, of foundation CEOs surveyed, 60 percent agreed that "Foundations are very aware of the challenges that nonprofits face today," and 52 percent of nonprofit CEOs surveyed agreed with the statement "My foundation funders are aware of the challenges that my organization is facing." In addition, of nonprofit CEOs surveyed, 31 percent agreed with the statement "My foundation funders take advantage of their myriad resources to help my organization address its challenges." Of foundation CEOs surveyed, 41 percent agreed with the statement "Foundations take full advantage of their myriad resources to help their grantees succeed." In 2025, CEP asked foundation leaders how effective they feel their foundation has been in understanding challenges that their grantees face, and we asked nonprofit leaders how effective they feel their foundation funders have been at understanding challenges that their organization faces.



**Stepping Up for the Nonprofit Sector .....**

*“Many of our fundholders are removed from the lived experience of those who are suffering the greatest from these federal cuts that have happened. And so the pain that some fundholders feel is very different than the pain being felt by those who are the target of these changes. And until someone sees something affecting their 403(b), life is good: ‘What do you mean there’s something happening?’ With so much disinformation and the lack of good journalism these days, it is incumbent upon us to get out the information as a trusted source of information about what’s really happening. We’ll be spending an awful lot of time helping to educate others about the cuts and how they are hitting those who are the least among us here in our city.”*

– Foundation Leader

Almost all nonprofit leaders interviewed (93 percent) express dissatisfaction with foundations’ responses to the current context, with some suggesting that “philanthropy is scrambling to figure out how to respond” and that foundations “have either retracted, become ambiguous, or [become] very mysterious about what their next move is going to be.” One nonprofit leader describes frustration with the lack of action they have seen from philanthropy, saying: “I do think that this is a moment for courage, a moment for people to take a stand in a way that I haven’t seen. A lot of philanthropy has folded in this moment. And I think that, often, philanthropy has the resources, the platform, and the connections to do that in a way that the nonprofit’s leadership [cannot].”

More than half of nonprofit leaders interviewed (56 percent) indicate that they have a desire for foundations to be bolder and more outspoken in advocating for the nonprofit sector during this time. As one nonprofit leader says: “They should be rising to this occasion. For the most part, I don’t see much of that happening. I think they’re worried about their own financial status, to be honest with you. If this isn’t the rainy day, when is the rainy day? What could be worse?” Some nonprofit leaders also express frustration with what they see as a lack of transparency from foundations. “It’s the biggest foundations that are the most opaque, and we don’t know why, and they’re just saying things like, ‘We don’t think advocacy’s what we should be investing in right now,’ which seems like a wildly insane thing to say,” says one leader. “Because we don’t know and they’re not really talking about it — [we don’t know] how much of that is just because they lawyered up, and their boards of directors are saying, ‘Just hunker down and don’t do anything risky.’”

Nearly 40 percent of interviewed nonprofit leaders report that their funders have shifted their priorities or requirements in ways that are less supportive of or helpful to nonprofits in response to the current context. “People want to know their dollars are doing things,” says one leader in an interview. “So we’ve seen more outcome measurement reports needed.” Another explains that “some funders have requested more efforts, like having a community pitch in addition to the application, which didn’t receive great community feedback.”

About half of nonprofit leaders interviewed also raise the issue of needing to change DEI-related language on their websites or in foundation grant proposals. “I would say the biggest shift is some of the DEI programs are just gone,” says one leader. “There also used to be a focus on Black-led organizations or Black nonprofit leaders or Black founders. All of those programs are gone.” One nonprofit leader describes their foundation’s response to their use of DEI-related language in a proposal by saying: “One funder marked up our proposal like a fifth grade paper.”

## HOW FOUNDATIONS CAN BE MOST HELPFUL TO NONPROFITS IN 2026

Half of nonprofit leaders indicate that, in the coming year, they hope foundations will assist them in building skills, cultivating relationships, gaining knowledge, and acquiring resources that will enable them to best respond to challenges posed by the current context. Foundation leaders are quite aligned with nonprofit leaders in recognizing these needs, with about 40 percent of foundations and 50 percent of nonprofits listing capacity building as the most helpful action they can take to bolster nonprofits in 2026.

Foundation and nonprofit leaders also call attention to the need for more relational communication between foundations and nonprofits. About 40 percent of responding foundation leaders recognize that, to be most helpful to nonprofit organizations, foundations will need to be mindful about how they communicate with and support grantees at a more relational and interpersonal level, noting the need to “listen more [and] learn more.” In interviews, a similar percent of nonprofit leaders describe their own efforts to communicate more and be more open with their foundation funders about their organization’s needs and challenges. Yet, some note a gap in foundation leaders’ awareness of what many nonprofits are truly experiencing. “It feels like they didn’t know what is happening, which is weird, because I know they know what’s happening,” says one nonprofit leader. “I think the feeling that I got was more of like, ‘Oh, I didn’t know that it was affecting you.’” (See Figure 9.)

**FIGURE 9. How Nonprofits and Foundations Believe Foundations Can Best Help Nonprofits Respond to the Current Context in 2026** (N=166-352)



Many foundation leaders believe that they need to be listening to nonprofits’ needs and “be ready to adapt and support” while focusing on “being responsive and providing professional support to help leaders think through challenges.” One foundation leader recognizes that, in order for foundations to meet this moment, they need to change how they work at a deeper level:

Funders talk a lot but do not follow with action. So much gets bottlenecked in process and the infrastructure we have built. CEOs need to empower their staff to innovate and disrupt these processes and measure efficacy by how quickly they can move money;



CEOs also need to educate their boards and bring them along by dismantling the myth that the ROI is built by made-up metrics on silly timelines, when, in fact, the very act of deep listening to grantee partners is a liberating act, and a very real ROI, that then loosens everything else that can deliver.

Nonprofit leaders ask that foundations “be the voice for change,” saying that “nonprofits cannot raise our voice without putting our clients at risk — but they can.” By pairing “financial support with advocacy, partnership, and infrastructure strengthening,” foundations can “help organizations remain resilient and responsive to community needs,” says another. One nonprofit leader requests that foundations “provide training and coaching support for leadership. Don’t just write a check, build a relationship.”

# CONCLUSION

The work of nonprofit organizations is vital. In the words of John W. Gardner, co-founder of Independent Sector: “[The nonprofit sector] enhances our creativity, enlivens our communities, nurtures individual responsibility, stirs life at the grassroots, and reminds us that we were born free.”<sup>19</sup> Nonprofits’ unique value — long recognized by both Democratic and Republican presidential administrations — is only underscored in the current context of government cuts to critical services and programs that exist to meet basic needs of the most vulnerable among us. Many nonprofits are facing the simultaneous challenges of significant funding cuts and increased demand for services. Some are facing mergers or closures, while others have been forced to lay off staff, cut long-standing programs, and change how they publicly describe and conduct their work. Despite this, there are many examples of nonprofits responding with creativity, resourcefulness, and resolve to meet their missions.

Many foundations report changing their grantmaking, application, and reporting practices to better support nonprofits. Some report they have had serious reflection within their organizations and their boards on the role of philanthropy in supporting the nonprofit sector in the face of unprecedented challenges. However, many foundations and nonprofits are looking for more when it comes to foundations’ responses and efforts in the year ahead, as nonprofits continue to adapt to a new and unpredictable reality. As one foundation leader says:

We [foundations] are part of civil society. That is incredibly unique when we think about other countries. Private philanthropy, in particular, has enough independence and freedom to use our resources in ways that others cannot. We have a responsibility to fight back and push back in this moment, and to be strategic.

---

<sup>19</sup> John W. Gardner, “Preserving the Independent Sector,” Independent Sector, May 16, 1979, <https://independentsector.org/community/preserving-the-independent-sector/>.

# METHODOLOGY

The findings presented in this report are based on data collected, analyzed, and interpreted by the Center for Effective Philanthropy. CEP fielded two surveys and received responses from leaders of 227 foundations and 408 nonprofit organizations, respectively.<sup>22</sup> In addition, in-depth interviews were conducted with 27 nonprofit leaders and 31 foundation leaders. Information detailing the process for collecting and analyzing the data is below. The full methodology for this report, including demographics of survey respondents and interview participants, can be found [here](#).

## NONPROFIT SURVEY METHODOLOGY

### Nonprofit Sample Characteristics

In August 2025, CEP invited 893 nonprofit leaders from the Nonprofit Voice Project (NVP) — a panel of U.S. nonprofits that is representative of the national landscape of nonprofits that receive at least some foundation funding — to participate in this survey.<sup>23</sup> More information on the criteria for inclusion and the original NVP sample creation process can be found on our website [here](#).<sup>24</sup>

### Nonprofit Survey

This survey contained 45 items and was fielded online for a four-week period in 2025 — August 25 to September 24. A copy of the survey instrument can be found on our website [here](#).

### Nonprofit Response Rate

Completed surveys, defined as having at least 80 percent of the core questions answered, were received from 404 nonprofit leaders. (See Table 1.)

**TABLE 1. Nonprofit Survey Response Rate**

| Survey period                          | Number of eligible respondents | Number of completed/partial responses | Survey response rate |
|----------------------------------------|--------------------------------|---------------------------------------|----------------------|
| August 25, 2025, to September 24, 2025 | 893                            | 408                                   | 46%                  |

<sup>22</sup> We did not use a probability methodology to construct these samples.

<sup>23</sup> Replacements for leaders who had agreed to be in the original NVP sample but had left the organization since the previous fielding of the survey were made only if their successors reached out and explicitly asked to take the survey in their stead. There was one replacement made.

<sup>24</sup> The first time a survey was administered to this group, the number of eligible respondents in the NVP sample was 893 leaders (“Challenging Times: How U.S. Nonprofit Leaders Are Experiencing the Political Context,” <https://cep.org/report/challenging-times-how-u-s-nonprofit-leaders-are-experiencing-the-political-context/>).

# FOUNDATION SURVEY METHODOLOGY

## Foundation Sample Characteristics

In August 2025, CEP invited 769 foundation leaders to participate in a survey.<sup>25</sup> Foundation leaders were eligible for inclusion in this research study if the foundation they worked at was based in the United States; was categorized by Candid’s online Foundation Directory or CEP’s internal contact management software as an independent, health conversion, or community foundation; and provided \$5 million or more in annual giving, according to the most recent available year of financial information in Candid’s online Foundation Directory or CEP’s internal contact management software. Furthermore, to be eligible for inclusion, leaders of eligible foundations must have had a title of president, CEO, executive director, or equivalent, as identified through the foundation’s website, Form 990, or internal CEP staff knowledge, and an email address that could be accessed online, such as on the foundation’s website, or through internal CEP records.

## Foundation Survey

This survey contained 48 items and was fielded online during a four-week period in 2025 — August 25 to September 24. A copy of the survey instrument can be found on our website [here](#).

## Foundation Response Rate

Completed surveys, defined as having at least 80 percent of the core questions answered, were received from 227 foundation leaders. (See Table 2.)

**TABLE 2. Foundation Survey Response Rate**

| Survey period                          | Number of eligible respondents | Number of completed responses | Survey response rate |
|----------------------------------------|--------------------------------|-------------------------------|----------------------|
| August 25, 2025, to September 24, 2025 | 763                            | 227                           | 30%                  |

# INTERVIEW METHODOLOGY

To test and refine our interview protocol, three pilot interviews were conducted in August 2025 with members of the study’s advisory group — one nonprofit organization and two foundations. A copy of the nonprofit interview protocol can be found [here](#), and the foundation interview protocol can be found [here](#).

CEP randomly selected 150 nonprofits and 150 foundations from the survey samples to reach out to for formal interviews. The foundation sample was stratified by giving size (half above and half below the median giving size) and region (approximately 25 percent representation of the sample in each U.S. census region). For nonprofits, the sample was stratified by total revenue (half above and half below the median annual revenue) and region (approximately 25 percent representation of the sample in each U.S. census region). There was greater interest in being interviewed than could be accommodated due to CEP’s research timeline, and, ultimately, CEP interviewed 27 nonprofit leaders and 31 foundation leaders from these samples.

<sup>25</sup> Six foundations were removed from this initial sample for various reasons — including our inability to reach the foundation’s leader during the survey period, the foundation not fitting CEP’s sample requirements, the foundation’s internal policies prohibiting participation in external surveys, and the foundation sunsetting during the survey period.

# A SECTOR IN CRISIS:

## How U.S. Nonprofits and Foundations Are Responding to Threats

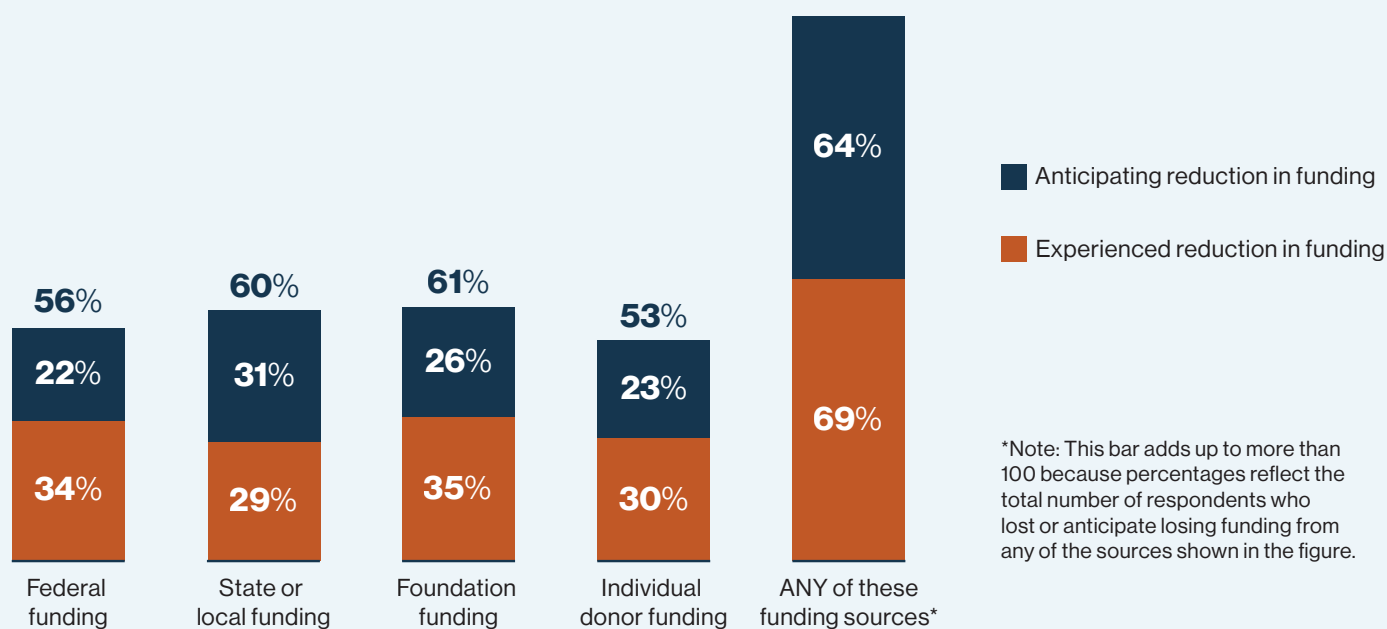
### Key Findings:

1. Nonprofit leaders see this as a time of existential threat to their organizations.
2. Foundations have responded to the crises nonprofits are facing in a variety of ways.
3. Many foundation and nonprofit leaders believe foundations should be doing more.

## 1 Nonprofit leaders see this as a time of existential threat to their organizations and the communities they serve as they face both increased demand for their services and significant cuts to their funding.

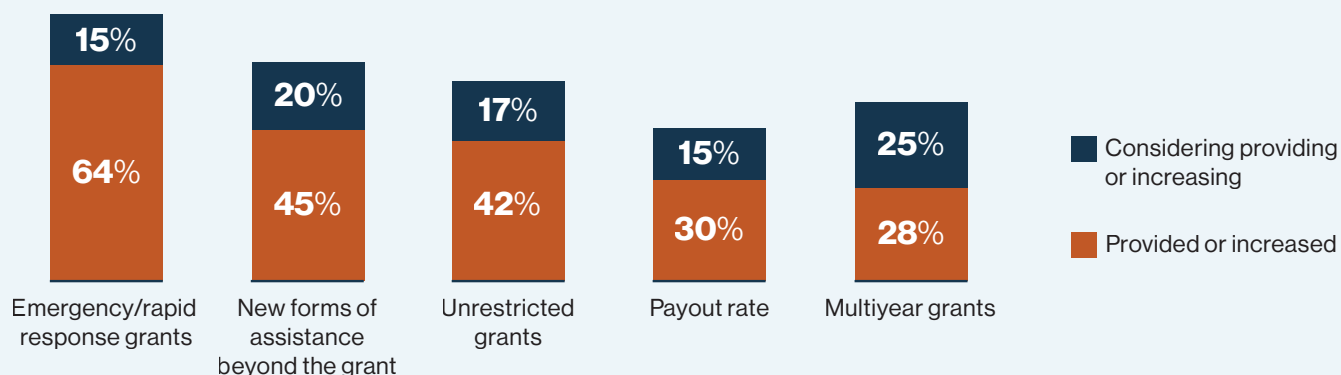
**65%** of nonprofits report increased demand for services in 2025 as a result of the current context

### Nonprofit Funding Cuts by Funding Source as a Result of Current Context (N=404-406)



## 2 Many foundation leaders recognize the high stakes of the current context for nonprofits and have made changes to their grantmaking and processes in response.

### Changes to Foundation Practice in Response to Current Context (N=216-222)





### 3 Many foundation and nonprofit leaders believe that foundations have an even larger role to play in supporting nonprofits during this time, and many suggest that foundations could and should be doing more.

**42%** of interviewed foundation leaders are dissatisfied with overall response from foundations

#### Proportion of Leaders Rating Foundation Response to Current Context as Moderately/Very Effective (N=221-401)



#### Questions this raises for boards

1. What is your foundation doing now to support nonprofits through the current context?
2. What are the trade-offs involved in making choices to address the current context versus planning for the long term?
3. What is one thing the board of directors at your foundation could do during this time to further support the foundation's mission?

#### Resources to learn more

- Full CEP report from which this data was pulled: [“A Sector in Crisis: How U.S. Nonprofits and Foundations Are Responding to Threats”](#)
- National Council of Nonprofits: [“Nonprofits Get It Done”](#)
- The Urban Institute: [“How Government Funding Disruptions Affected Nonprofits in Early 2025”](#)

If your staff or board is interested in learning more, or you would like someone from CEP to facilitate a conversation with your board based on these findings, please reach out to CEP's Vice President of Research, Elisha Smith Arrillaga, at [elishas@cep.org](mailto:elishas@cep.org).

CEP is a nonpartisan, tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. We do not endorse, support, or oppose any political party or candidate for public office. Our research, programs, and public communications are designed to advance our mission and serve the public interest without regard to partisan considerations.

**ESSENTIAL, ENDURING,  
AND UNDER STRAIN:**

# **Los Angeles' Nonprofit Sector in 2025**

# WHO RESPONDED TO THE SURVEY?

## A SNAPSHOT OF THE LA NONPROFIT SECTOR



This report focuses on responses from the 197 organizations from Los Angeles County (LA) that took the 2025 State of the Nonprofit Sector Survey. Compared to nonprofits in the rest of the country, those in LA had smaller budget sizes, were established more recently, and were more likely to be led by a person of color.

**Throughout this report, when comparisons are made between national and LA nonprofits, the national data excludes respondents from LA.**

### KEY SAMPLE DIFFERENCES: LA VS. NATIONAL

|                                                      | LA  | National<br>(excluding LA) |
|------------------------------------------------------|-----|----------------------------|
| Number of respondents in sample                      | 197 | 2009                       |
| Percentage with operating expenses under \$1 million | 54% | 45%                        |
| Percentage established in 2000 or later              | 51% | 42%                        |
| Percentage led by person of color*                   | 61% | 35%                        |
| Percentage with an Asian or Asian American leader    | 15% | 5%                         |
| Percentage with a Hispanic or Latine leader          | 24% | 10%                        |

\*Person of color is defined in this survey as an individual self-identifying as one or more of the following races/ethnicities: American Indian or Alaska Native, Asian or Asian American, Black or African American, Hispanic or Latine, Middle Eastern, and/or Native Hawaiian and/or Pacific Islander.

### ABOUT THE 2025 NATIONAL STATE OF THE NONPROFIT SECTOR SURVEY

The State of the Nonprofit Sector Survey – Nonprofit Finance Fund’s (NFF) tenth – gathered data about US nonprofits’ health and their collective challenges and successes. This dataset is used across the sector to advocate for meaningful actions philanthropy, government, and others can take to support nonprofits into the future.

The 2025 Survey was conducted in collaboration with EVITARUS and Ambit 360 Consulting. From January 30 to March 14, 2025, we asked US nonprofit leaders a series of questions to understand the management, operational, and financial picture they navigated in 2024 and anticipated in 2025.

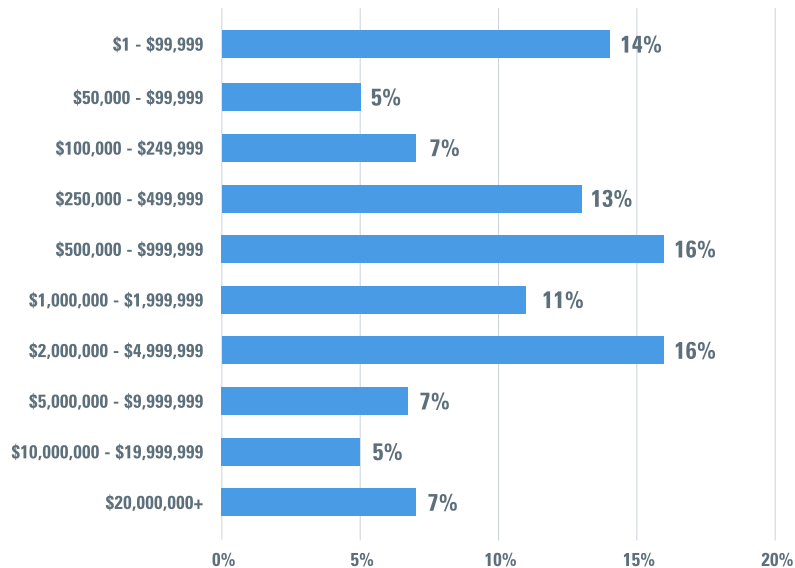
NFF is deeply grateful to the 2,200+ national survey respondents for all of the important work they do every day, and for entrusting us with their stories. NFF also thanks our survey sponsors and the many community partners who provided input on survey topics and distributed the survey to their networks.

**Note: Due to rounding and to questions that allowed respondents to select multiple answer choices, not all numbers in this report may appear to add up to exactly 100%.**

We have accomplished [our] mission over the last 43 years through a community development model. This model has taken many forms, but one thing has remained the same: We only offer programs the community asks for. With this model, we have always taken a “ground-up” approach to our programming instead of a “top-down model,” telling the community what they need to thrive. We understand that the best solutions for a community come from the people most deeply affected by the problems facing that community.

Youth services survey respondent in LA

#### FY 2024 OPERATING EXPENSES

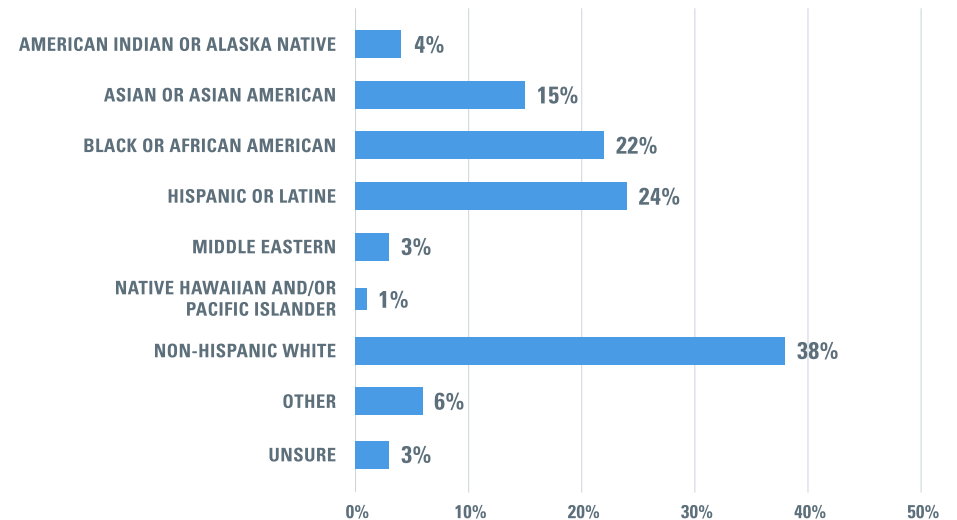


#### KEY AREA OF OF WORK

|                                                                       |     |
|-----------------------------------------------------------------------|-----|
| Arts/Culture                                                          | 16% |
| Human Services                                                        | 14% |
| Education (Including Early Childhood)                                 | 12% |
| Housing/Shelter                                                       | 9%  |
| Youth Services                                                        | 9%  |
| Social Justice/Civil Rights/Community Organizing                      | 8%  |
| Mental Health/Crisis Intervention                                     | 7%  |
| Economic Development (including Employment and Workforce Development) | 6%  |
| Community Development                                                 | 5%  |
| Other*                                                                | 16% |

\*Categories in “Other” include: Capacity Building/Nonprofit Support, Environment/Environmental Justice, Food/Agriculture/Nutrition, Healthcare, Immigration, Philanthropy or Grantmaking, and Religion.

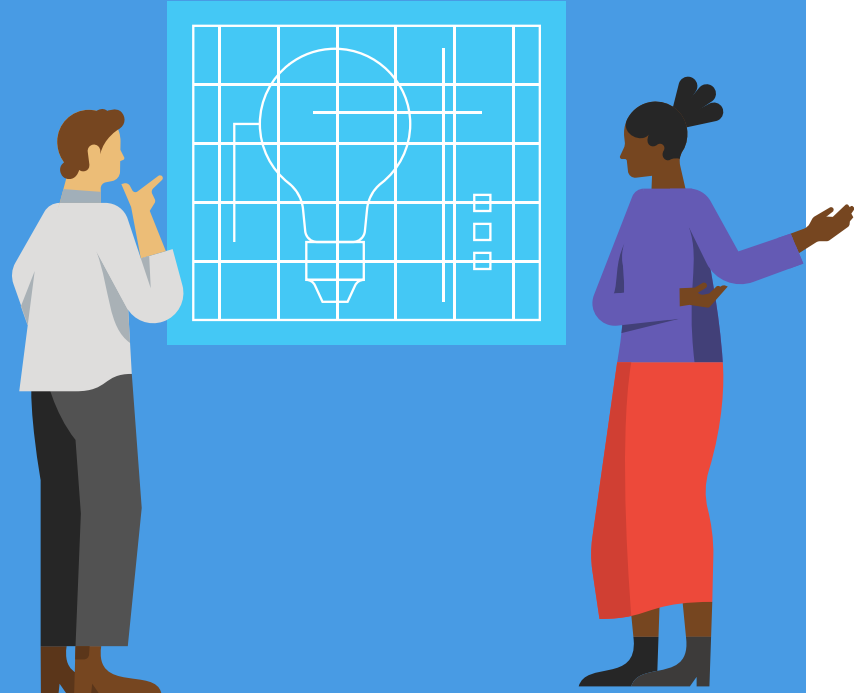
#### RACE/ETHNICITY OF ORGANIZATIONAL LEADER



Additionally, 64% of respondents said that half or more of their leadership teams identify as people of color. Two-thirds (67%) of organizations are female-led and 19% have an organizational leader who identifies as LGBTQIA+.

WHAT THE DATA TELLS US

**NONPROFITS ARE THE INFRASTRUCTURE THAT POWERS AND SERVES LA COMMUNITIES**



**LA nonprofits don't just serve the community; they are the community.**

**Across Los Angeles, nonprofits are vital community infrastructure. They care for us during local crises like devastating wildfires. They protect us, house us, feed us, teach us, and make LA strong and vibrant for all who live here.** Local nonprofits are rooted in community and working toward a better future for all. In LA, 40% of respondents have a leader with lived experience representative of a community the organization serves. 48% said they received and acted on community feedback about their services in 2024.

Across sectors, 75% of LA nonprofits exclusively or primarily serve people with lower incomes, as compared to 66% of organizations nationally.

| MAJOR FOCUS AREAS FOR LA RESPONDENTS             |     |
|--------------------------------------------------|-----|
| Building Community Wealth and Well-Being         | 64% |
| Address Economic Inequality                      | 61% |
| Advancing Racial Equity                          | 53% |
| Helping People Maintain and/or Keep Quality Jobs | 36% |
| Advancing Gender Equity                          | 30% |
| Advancing Environmental Justice                  | 26% |

In addition to directly serving communities, 46% of respondents engaged in advocacy/policy work and 42% worked to increase community civic engagement in 2024.

As an organization founded and operated by Latinos, our mission is to serve emerging artists from underserved communities, including individuals from historically marginalized communities and identities.

Arts/culture survey respondent in LA



# From employing residents to buying locally and developing the workforce, nonprofits in LA boost the economy.

The LA nonprofits in our survey employed over 12,500 people in 2024, with many sharing that their staff are from the local communities they serve. Additionally, 43% spent more than \$100,000 in 2024 buying services, food, or other supplies from local vendors, with 7% spending more than \$1 million at local vendors.

Our organization has grown tremendously in the last 10 years and currently employs close to 400 local staff, many of whom grew up and reside in the communities we serve. This significant employment contribution helps reduce local unemployment rates and provides financial stability for local families.

Youth services survey respondent in LA

The organization supports local businesses by sourcing supplies, contracting services, and leasing housing units, stimulating the local economy. [The organization's] work not only improves individual lives but also strengthens the broader economic health of South Los Angeles by creating jobs, reducing public costs, and fostering economic mobility.

Housing/shelter survey respondent in LA

We provide vocational training, digital literacy programs, and career development resources, equipping individuals with the skills needed to secure stable employment and higher wages. We offer mentorship, financial literacy education, and business development support for aspiring entrepreneurs, particularly in marginalized communities. By helping small businesses launch and sustain operations, we contribute to local economic growth. [We] connect individuals and families to job placement services, housing assistance, and financial support programs. These services reduce economic hardship and help families move toward self-sufficiency.

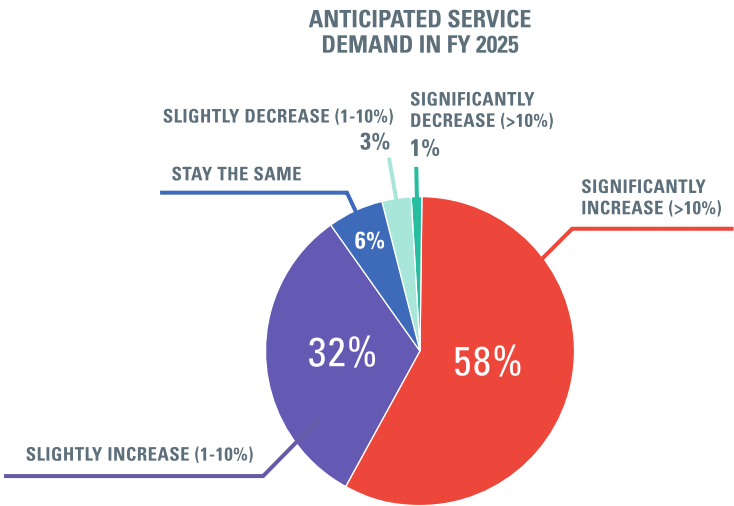
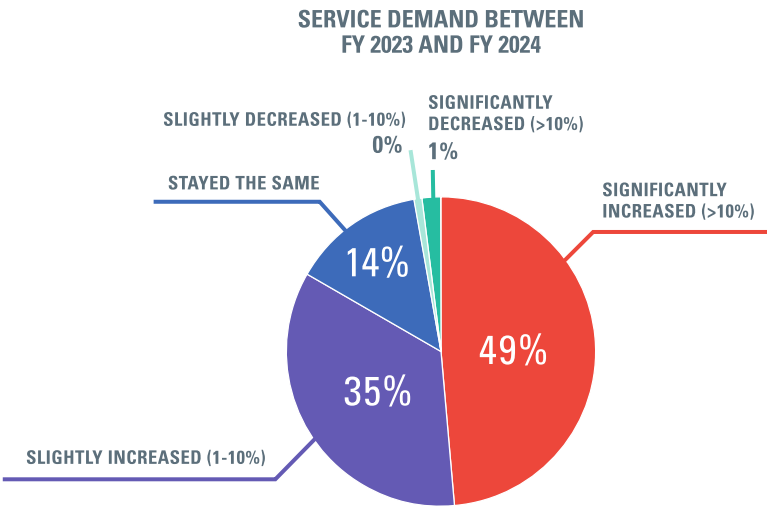
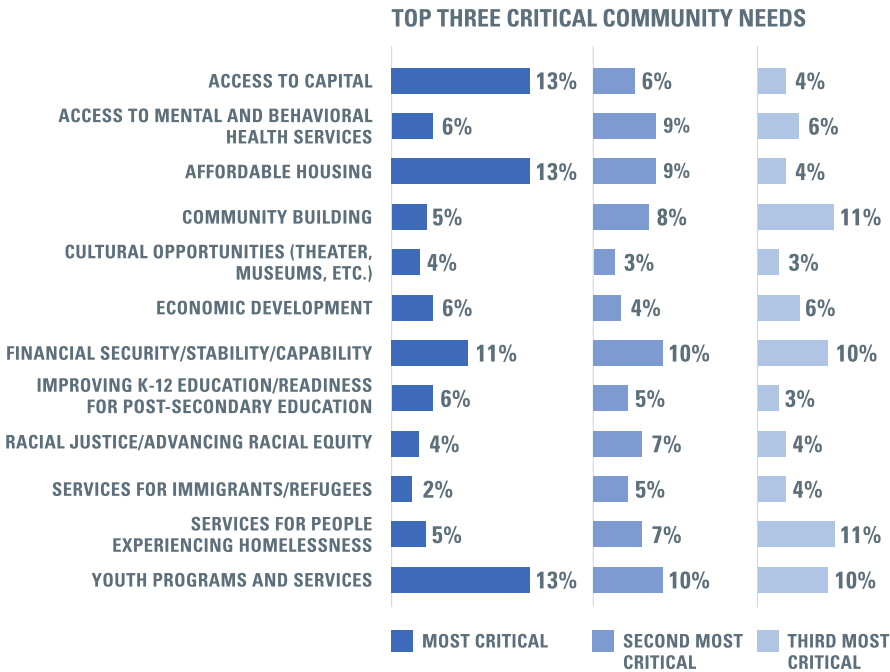
Community development survey respondent in LA



# Demand for services is rising, with youth services, financial security, and housing identified as top community needs in LA.

Local nonprofits are working to address a range of interconnected community needs. Notably, one-third of organizations shared that youth programs and services are a top need, compared to 23% of organizations nationally.

Most respondents reported that demand for their services is increasing; over half (52%) don't expect to meet service demand in 2025.



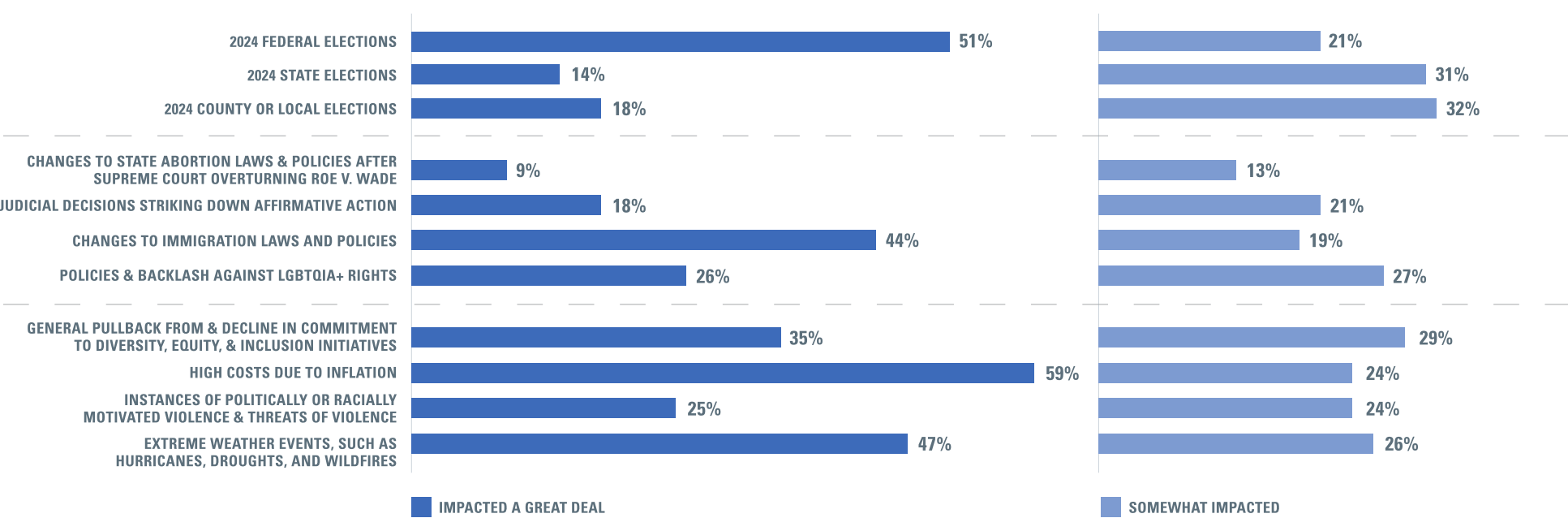
# With devastating local wildfires, changes to immigration policy, elections, and inflation, 2024 into 2025 was a time of change for LA nonprofits.

Compared to respondents nationally, nonprofits in LA were more likely to report impact from extreme weather events such as wildfires (73% in LA reported impact, compared to 44% nationally) and changes to immigration laws and policies (63% in LA reported impact, compared to 54% nationally). LA organizations are preparing their staff and programs for impacts of federal government anti-immigrant activity in addition to actions against diversity, equity, and inclusion efforts and LGBTQIA+ rights. They are preparing operationally by conducting scenario planning, pursuing new funding models, and joining coalitions to advocate and partner.

We ordered Red Cards for our families, we sent resources regarding immigration raids and how to protect themselves, we provide counseling to students who are most fearful for their families, and we educate our staff on the executive orders that have been passed in the last two weeks.

Education survey respondent in LA

IMPACT OF RECENT EVENTS ON ORGANIZATIONS AND THE CLIENTS THEY SERVE

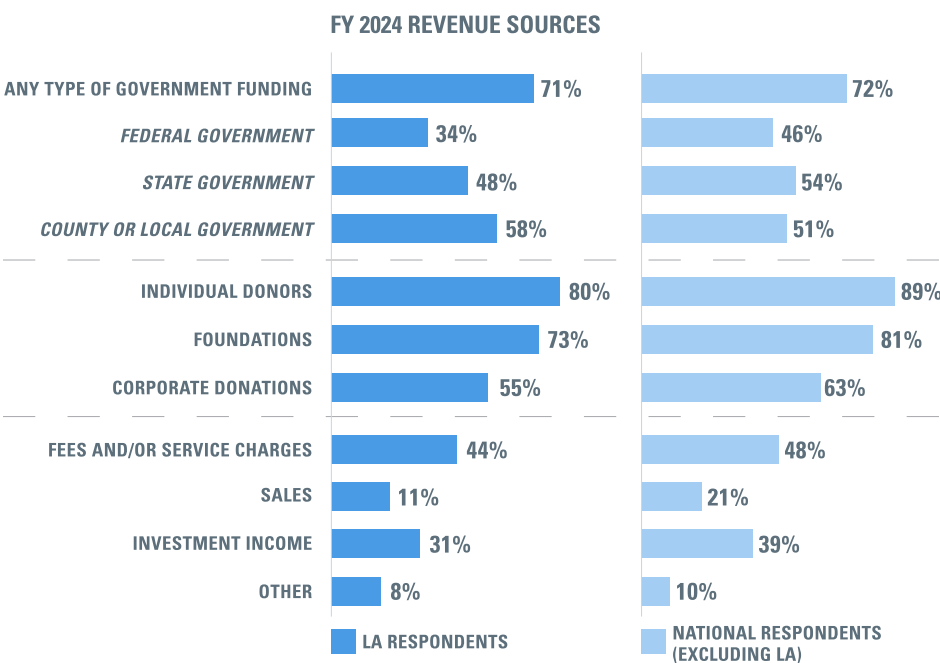


# WHAT THE DATA TELLS US

## NONPROFIT FUNDING DYNAMICS

## Most LA nonprofits rely on foundation and government funding to operate and are navigating payment delays and funding decreases.

LA organizations' most frequent donors (80%), foundations (73%), and government (70%). A higher percentage of nonprofits in LA rely on county or local government funding as compared to nonprofits nationally.

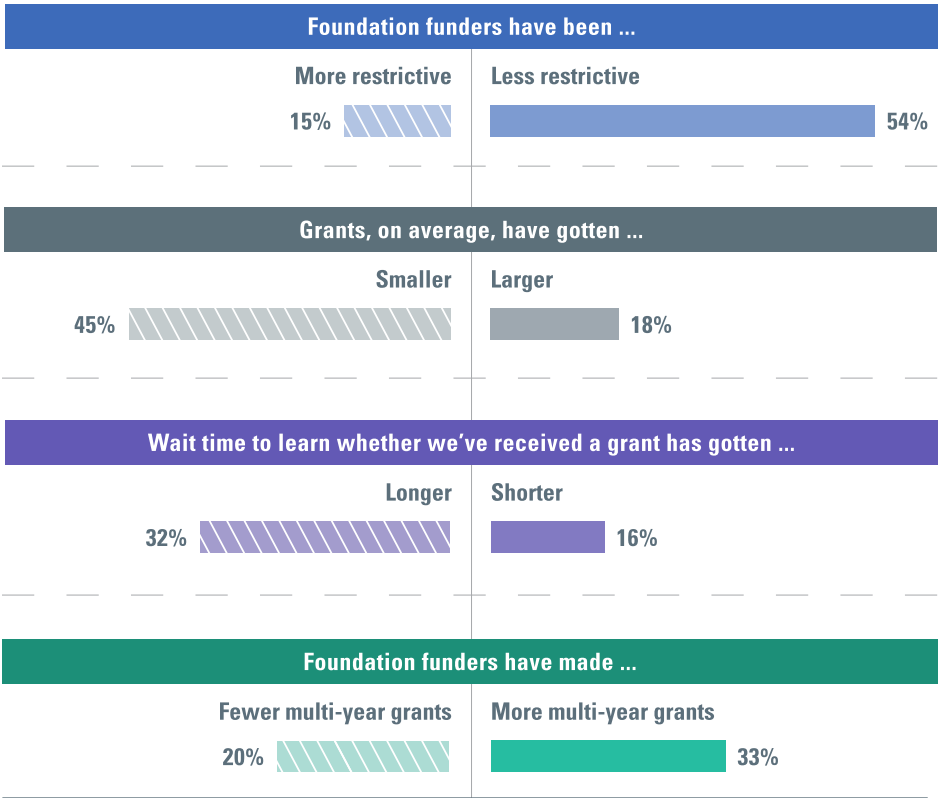


A CLOSER LOOK AT FOUNDATION FUNDING

Our 2025 survey explored how foundation funding practices have changed since late 2022, to capture if supportive funder practices started during the COVID-19 pandemic have continued.

Among respondents in LA receiving foundation funding in 2024, more than half (54%) shared that funders have gotten less restrictive since late 2022, compared to 39% of national respondents. This suggests many LA funders are taking action to support their grantees. One-third (33%) said funders are making more multi-year grants, compared to one-quarter (24%) of national respondents. 45% of LA respondents shared that grants have, on average, gotten smaller, consistent with national results.

CHANGES IN FOUNDATION FUNDING PRACTICES SINCE LATE 2022



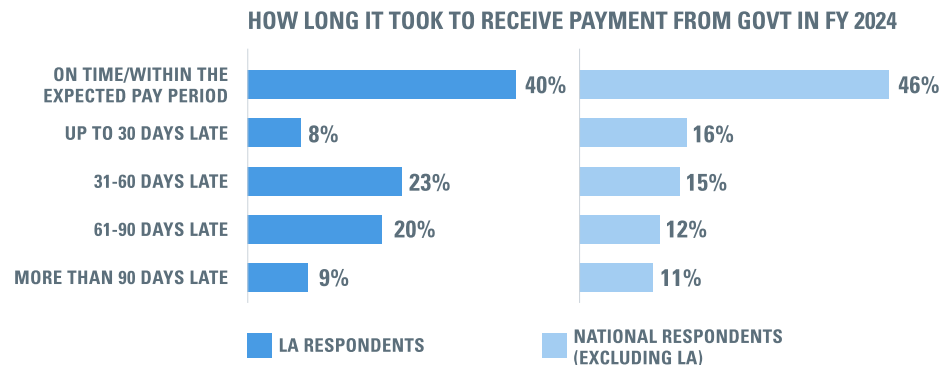
In FY2024, we are most proud of keeping our doors open and continuing to provide vital services to our community while facing financial challenges on a regular basis. Providing outreach programs that provided vital support to local families, increasing our workforce by 10%. Additionally, we strengthened our partnerships with local businesses and nonprofits, amplifying our collective impact on the community.

Human services respondent in LA



## A CLOSER LOOK AT GOVERNMENT FUNDING

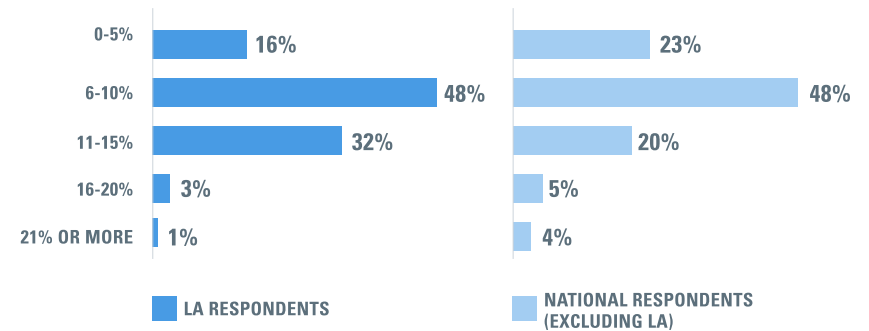
LA respondents with federal, state, and local government funding reported significant delays in payment. 40% said they are paid on time, compared to 46% of nonprofits nationally. 29% said they typically receive payment more than 60 days late, compared with 23% of respondents nationally.



These delays have been longstanding across LA nonprofits, with critical services to Los Angeles residents hanging in the balance. To continue operating amid delays, 41% of LA survey respondents reported taking on debt from a financial institution, 36% delayed payment to vendors, and 31% drew on savings, while 28% paused or reduced services.

LA nonprofits generally reported a higher average allowable indirect rate than nonprofits nationally. Yet almost two-thirds (64%) still reported a typical rate of 10% or less, acknowledged in October 2024 OMB guidance as insufficient to run a healthy organization.

## TYPICAL INDIRECT RATE ALLOWED IN FY 2024



Amid these challenges with existing government funding, 82% of LA nonprofits with government funding expected it to decrease as a result of the 2024 election, with 56% expecting it to decrease by more than 10%.





# WHAT THE DATA TELLS US NONPROFIT FINANCIAL HEALTH



## LA nonprofits entered 2025 with fragile financial health.

To understand short- and long-term nonprofit financial health, we look at two main indicators in this survey: operating surplus/deficit and months of cash.

### METRIC

### WHAT IT MEASURES

Operating Surplus or Deficit

Whether your organization ended the year with more revenue than expenses (surplus) or less (deficit). A surplus supports stability and growth. A deficit limits flexibility, increases risk, and makes it harder to respond to urgent needs or invest in long-term change.

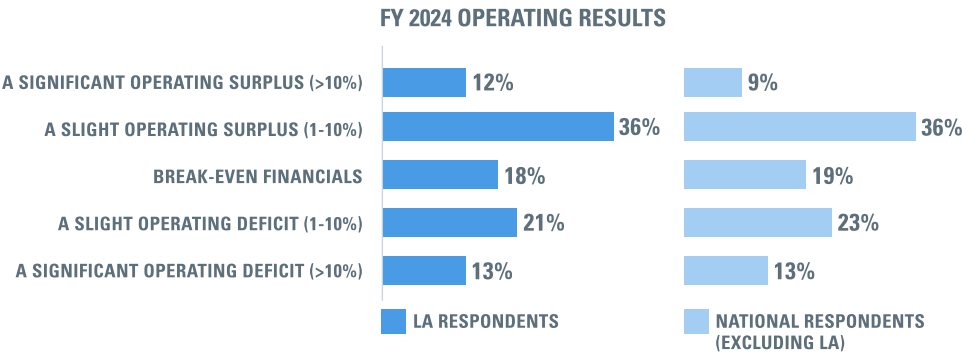
Months of Cash

How long your organization can operate with the cash it has today, assuming no new income. This is a key measure of liquidity. It indicates, for example, how long an organization could keep running if a crisis hit, or how much cash it has available to invest in opportunities.

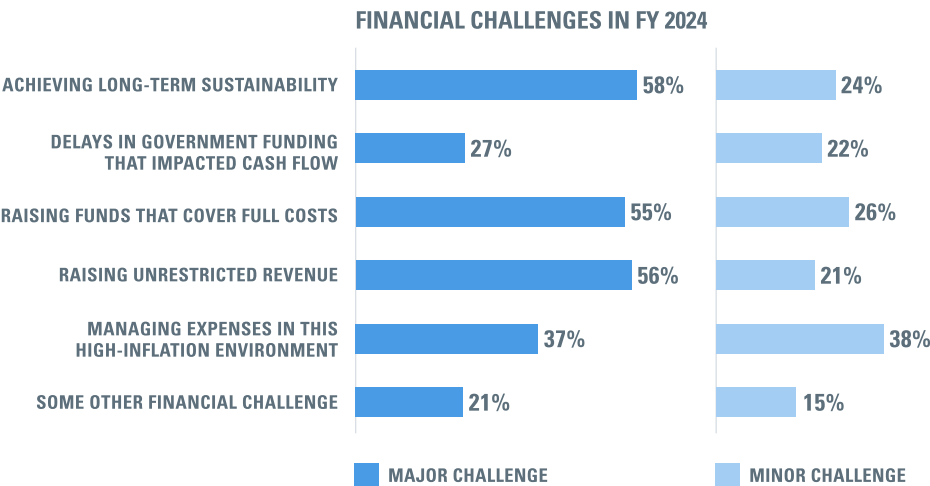
We are focusing our attention inward on operations, administration, infrastructure, and sustainability to strengthen the organization to withstand the tide of regression in policies, practices, and advances that have supported our work over the past 30 years... We will build internal systems, structures, policies, and procedures to strengthen financial, HR, IT, compliance, communications, and operations. Our goal is a stronger infrastructure that matches our strong mission, vision, values, and service to our community across California.

Social justice/civil rights/community organizing survey respondent in LA

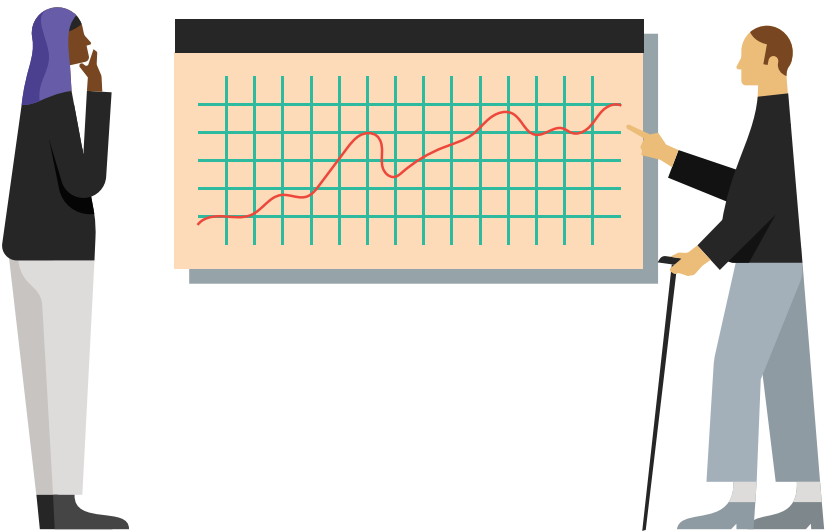
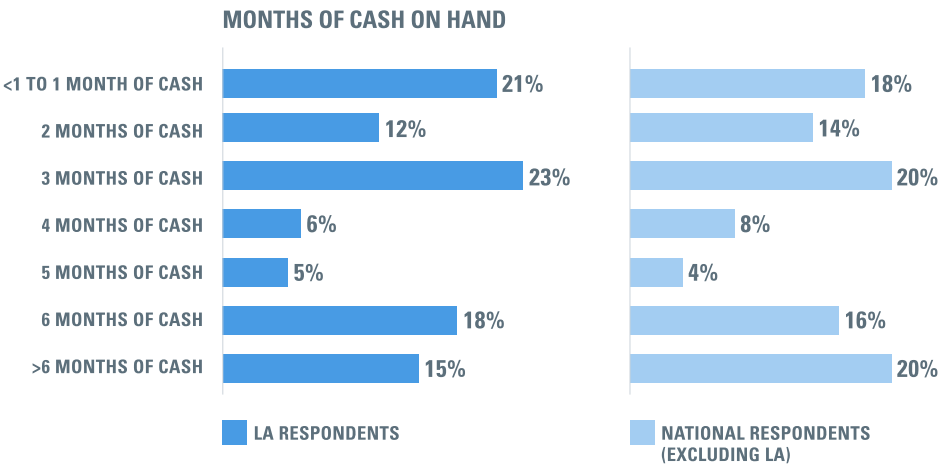
Many local nonprofits are struggling to cover their costs and don't have the cash on hand to manage delays or emergencies or to make strategic investments. 34% of LA respondents reported an operating deficit in 2024, on par with national respondents. In 2025, a greater proportion of national nonprofits reported deficits than in the past ten years of our national survey data.



81% of LA nonprofits reported challenges raising funds that cover **full costs** and achieving long-term financial sustainability in 2024.



One out of five organizations (21%) had one month or less of cash on hand. While 60% reported having reserve funds separate from operating cash on hand, this is a lower percentage than nonprofits nationally, where two-thirds (67%) reported having reserve funds.



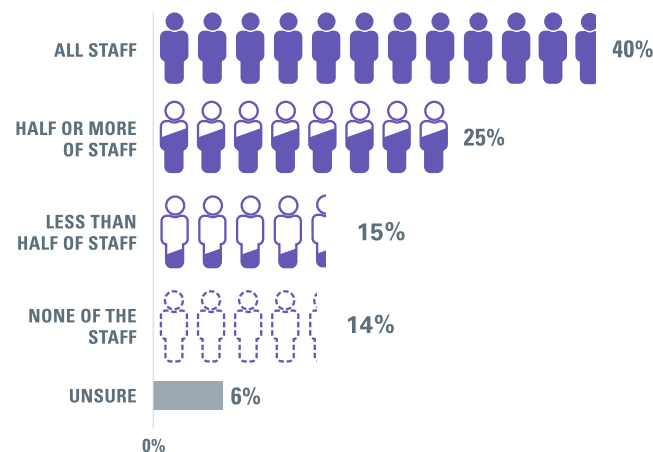
# WHAT THE DATA TELLS US NONPROFIT WORKFORCE DYNAMICS



## Investing in a healthy nonprofit workforce is a challenge with the high cost of living in LA.

80% of respondents in LA cited the high cost of living as a management challenge, compared to 68% of respondents nationally. For families with two working adults and two children in LA, each adult must earn more than \$32 per hour working full-time to support basic needs like housing, food, and childcare. For a family with one working adult and one child in LA, the adult must earn nearly \$50 per hour – over \$100,000 per year – to support basic needs.

### HOW MUCH OF YOUR FULL-TIME STAFF IS YOUR ORGANIZATION ABLE TO PAY A LIVING WAGE?



Just 40% of LA nonprofits were able to pay all full-time staff a living wage in 2024. Most respondents offered benefits to staff, including paid sick time (71%), paid vacation time (69%), and health insurance (65%). However, consistent with national trends, the ability to pay a living wage and offer benefits was lower for organizations with smaller budgets.

# In addition to high cost of living, most LA nonprofits are struggling with burnout and employing enough staff.

[Our] commitment to holistic wellness reflects [our] core belief that sustainability in social justice work requires deep investment in the well-being of those on the front lines. By centering mental health, offering tangible flexibility, and fostering joy-driven community care, [our organization] creates a work environment where staff members are empowered to continue their mission without sacrificing themselves in the process. In a climate of government opposition and heightened stress, these efforts serve as essential tools for resilience, ensuring that both the organization and its people remain strong, thriving, and unwavering in the fight for LGBTQ+ liberation.

Human services survey respondent in LA

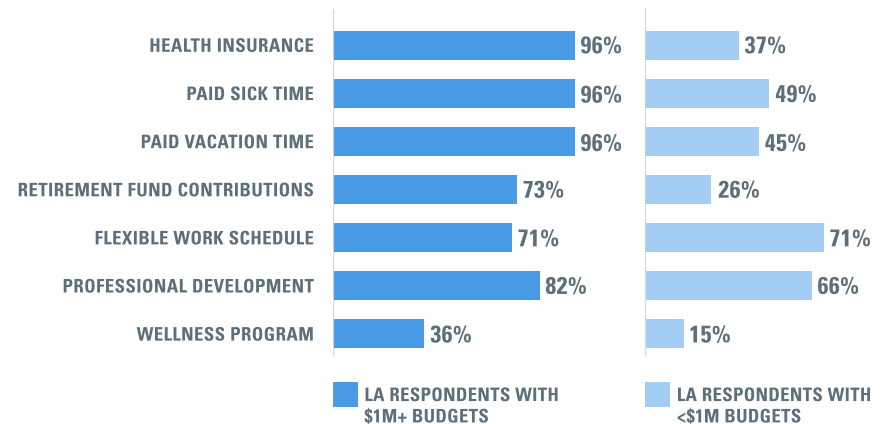
We received a grant to support staff health and wellness this year and have invested in both individual staff well-being and group wellness engagement; however, the Eaton fire and our proximity to it means we will have to greatly increase our investment in the coming years.

Education survey respondent in LA

We have increased wages/salaries with 2 cost of living adjustments, provided opportunities for professional development & training, and created [leadership development plans]. We also host fun events for staff to connect.

Economic development survey respondent in LA

## SELECT BENEFITS MADE AVAILABLE IN FY 2024 BY BUDGET SIZE\*



\*Other benefits survey respondents made available in 2024 included dental insurance, vision insurance, paid family leave above what the state provides, short-term disability, long-term disability, pre-tax account for medical expenses, pre-tax account for dependent care, and sabbaticals.

## MANAGEMENT CHALLENGES IN FY 2024



GETTING THROUGH,  
AND BUILDING  
WHAT'S NEXT

# WHAT WE CAN DO TO EMERGE STRONGER AS A SECTOR



## Recommendations from our National State of the Nonprofit Sector Survey Report

From building community wealth and well-being, to responding to urgent community crises, to housing, feeding, teaching, and inspiring, to creating jobs for residents – nonprofits are essential infrastructure and the lifeblood of a strong and vibrant Los Angeles. Yet in 2025, as LA recovers from the devastating wildfires, immigrants face daily threats, costs climb, funding declines, and demand for services grows, this infrastructure is under strain. How can we take action for nonprofits to thrive so that our communities thrive?

The following recommendations for funders and nonprofits come from [NFF's National State of the Nonprofit Sector Survey report](#):

- **Be Creative, Adaptive, and Brave to Meet the Moment**

- **For funders:** Increase your payout percentage, adapt your standard processes, listen to your grantees and pivot based on what you hear.
- **For nonprofits:** Assess your current situation, develop budget scenarios, vocalize your story and needs – early and honestly.

- **Acknowledge – and Invest in – What It Truly Takes to Do the Important Mission Work**

- **For funders:** Fund full costs, give multi-year, flexible funding, invest in workforce well-being and leadership sustainability, elevate the role and essentiality of nonprofits in public narrative.
- **For nonprofits:** Calculate and advocate for your full costs, and make clear the community impact of dollars invested in your organization.

- **Collaborate as a System**

- **For funders:** Invest in systems and coalitions, introduce nonprofits to funders and others who can support their work.
- **For nonprofits:** Build power with your network, share and leverage resources, support each other as leaders.

- **Extend Grace – to Yourself and Others**

Be compassionate with yourself during this time of heightened stress and fatigue, and focus your incredible energy on supporting your community, your team, and your peers.

# Recommendations for LA Government Funders

County and city government funding play a significant role in the LA nonprofit ecosystem, yet bureaucracy surrounding compliance and payments creates an immense burden for nonprofits managing these revenue sources.

Critical services, workforce stability, equity, and the trust of nonprofits and communities are at stake. **Here are additional recommendations for LA government to recognize nonprofits as businesses with operating needs and to support the nonprofit sector now and into the future:**

- **Move quickly** to expedite contracting, invoice processing, and payment, including by providing sufficient staff resources to procurement agencies for contract and invoice processing.
- **Streamline and standardize** forms, compliance processes and online payment systems and ensure all agencies adopt these changes; provide in-depth technical support to nonprofits navigating the government procurement and payment processes.
- **Partner across philanthropy**, local and state government, and the banking community – including mission-driven lenders like CDFIs – to expand grant and accessible financing programs to help nonprofits access capital for community-driven development and to navigate payment delays.
- **Update cost and procurement assumptions** to pay what it truly takes for nonprofits to deliver critical services, keeping up with inflation and local cost of living.

## ACKNOWLEDGEMENTS

Nonprofit Finance Fund® (NFF®) is a nonprofit lender, consultant, and advocate. For 45 years, we've helped organizations access the money and resources they need to realize their communities' aspirations. Alongside others, we're working to build community wealth and well-being and put affordable housing, essential services, quality jobs, and excellent education within reach of more people.

The National 2025 State of the Nonprofit Sector Survey was made possible through the [generous support of our sponsors.](#)

Nonprofit Finance Fund thanks Center for Nonprofit Management for their generous support of this Los Angeles report.



Thank you to our local survey distribution partners: Center for Nonprofit Management, CalNonprofits, The Nonprofit Partnership, Association of Community Human Services Agencies, Asian Pacific Community Foundation, Community Partners, United Way of Greater Los Angeles, and others that helped encourage participation.



# Nonprofit Finance Fundamentals

Financial Management Webinar Series for CCF Wildfire Recovery Grantees



**Presented by**

Mariesa Kubasek  
Manager, Consulting

Chiweta Rozaline Uzoka  
Manager, Consulting

Nonprofit Finance Fund  
February 23, 2026



Nonprofit Finance Fund®

This workshop series is made possible by generous support from the California Community Foundation.

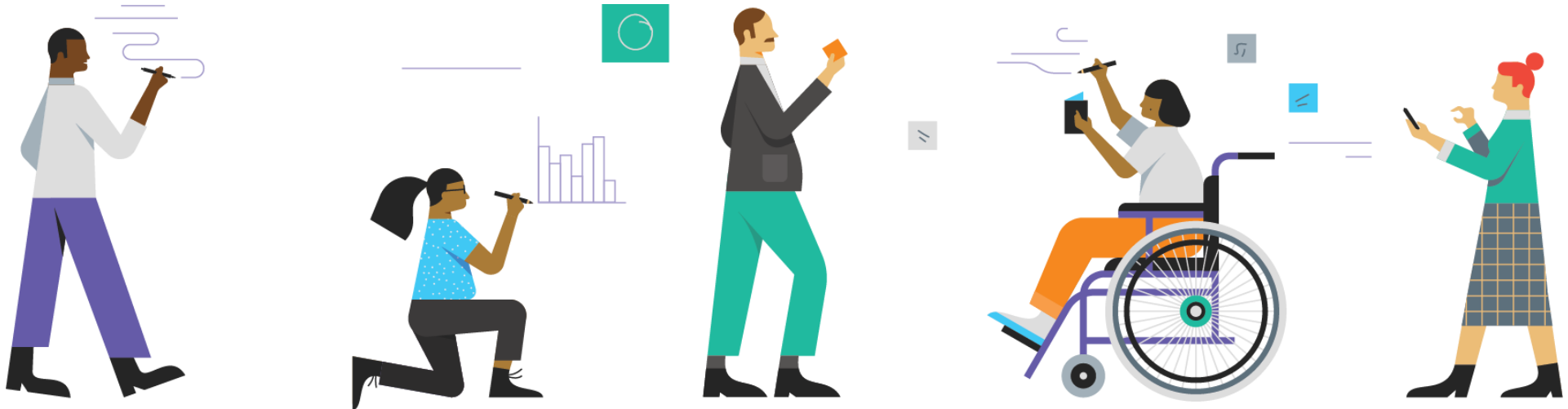
nff.org © 2026 Nonprofit Finance Fund

# Nonprofit Finance Fund (NFF): Where Money Meets Mission

*NFF envisions a society where money and knowledge come together to support just and vibrant communities.*

**We help mission-driven organizations achieve their communities' aspirations through:**

- **Tailored investments**
- **Strategic advice**
- **Accessible insights**



# Agenda

- Welcome & Introductions
- Nonprofit Sector Dynamics: Why nonprofit finance can be befuddling!
- Deep Dive: Analyzing the Business Model
- Deep Dive: Understanding Capital Structure
- Next Steps and Closing



## What We Will Accomplish Today:



**Create** a shared understanding of the financial health for nonprofit organizations



**Learn** core financial terms and concepts, and how to interpret key financial statements



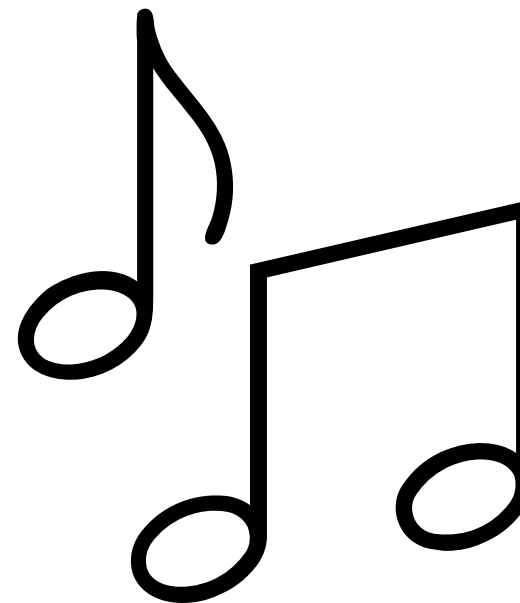
**Connect** the dynamics in financial statements to each other

# What Is Your Organization's Theme Song for 2026?

1. Ain't No Stoppin' Us Now
2. Don't Stop Believin'
3. I Will Survive
4. Ain't No Mountain High Enough
5. Eye of the Tiger
6. Stayin' Alive
7. Other

In the chat, please include the following:

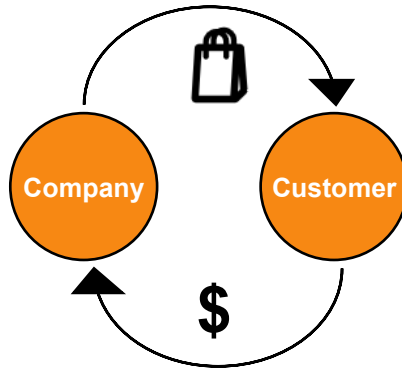
- Your Name and pronouns
- Organization
- Answer to the question



# “Rules” of For-Profit Finance

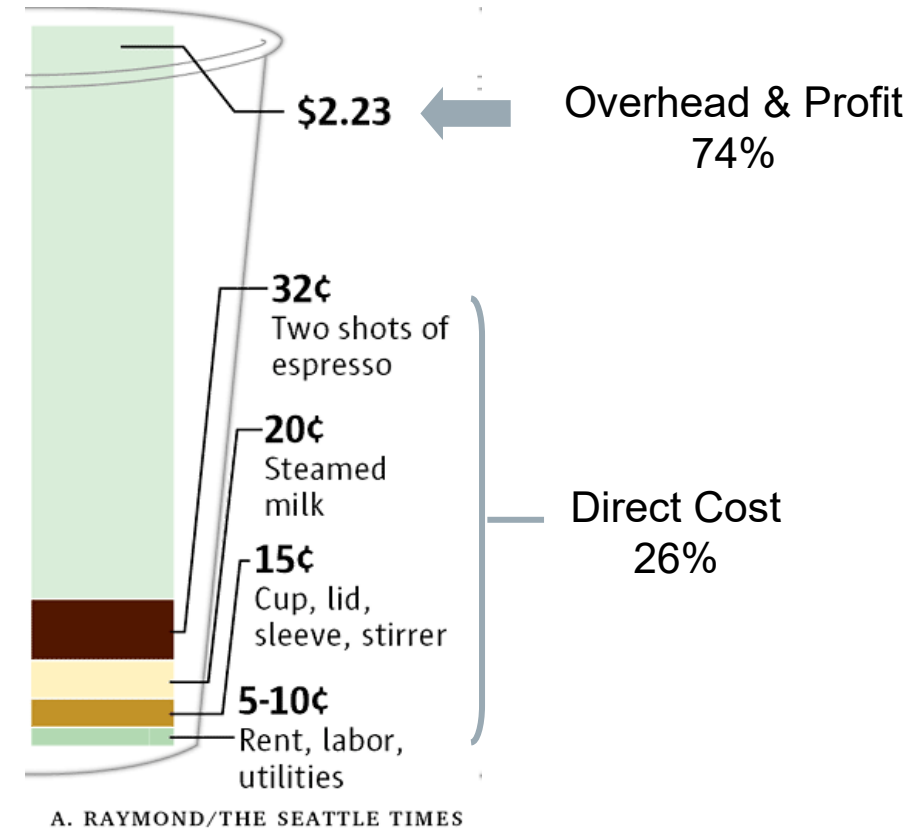
In the **for-profit** world:

- Customer buys the product



- Management decides how the money is spent
- Overhead and profit** are included in the price, and are seen as **necessary and regular** part of the business

**12-Ounce Coffee = \$3.00**



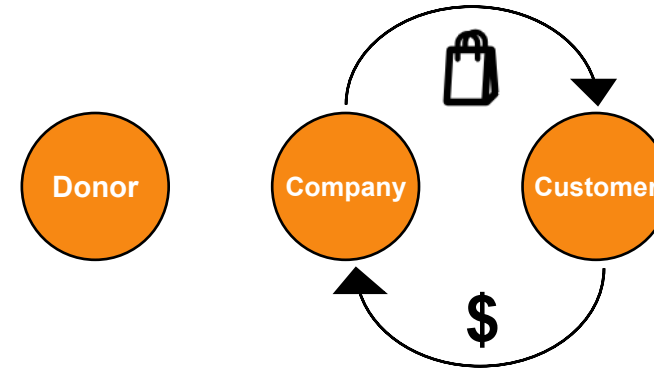
Source: Matt Milletto, Vice President of the American Barista & Coffee School



# “Rules” of Nonprofit Finance

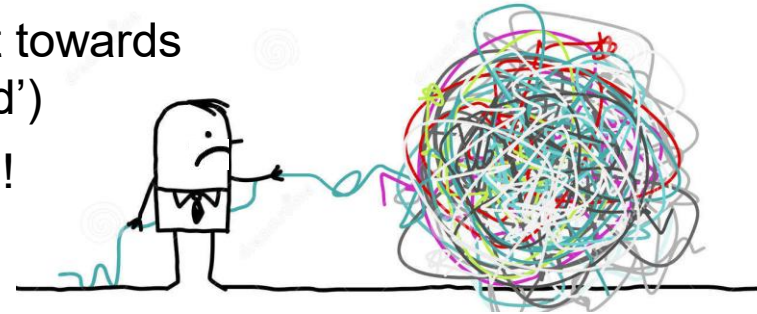
## Multi-payor system

- Client often does not pay
- Third parties pay



## Insufficient and Restricted Funding

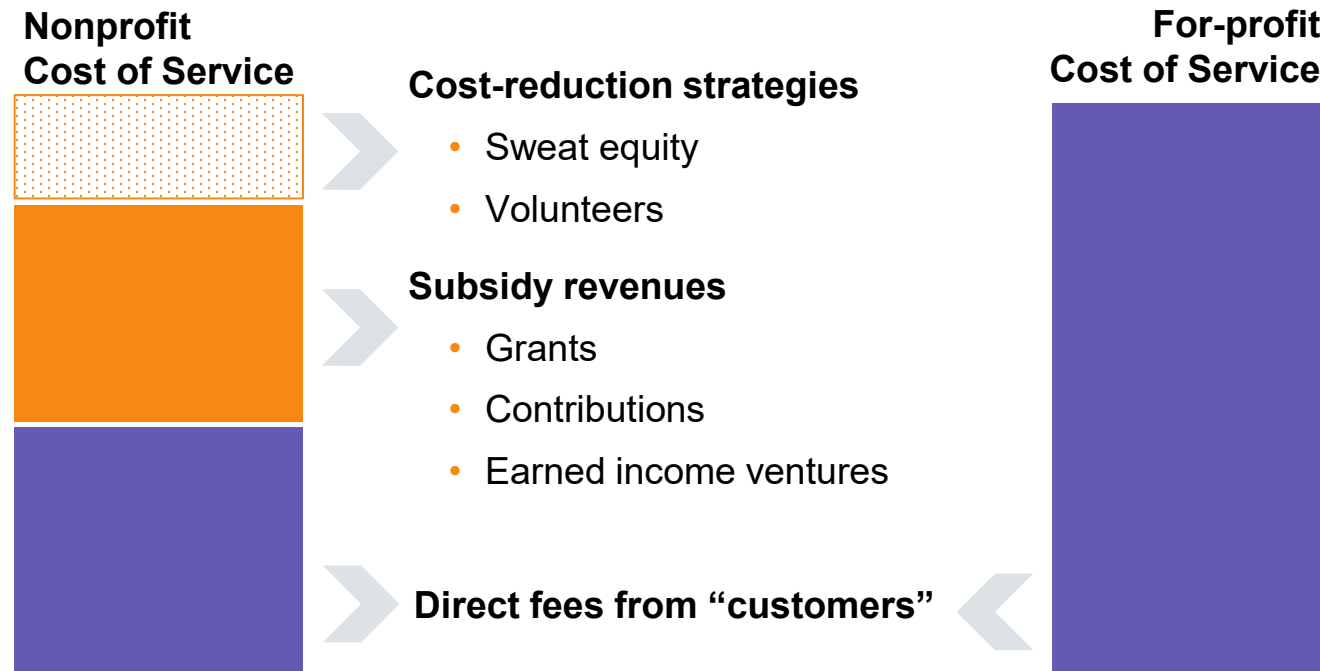
- Donors often direct their support towards ‘direct services’ (not to ‘overhead’)
- Restrictions complicate finances!



## Money-losing business

- Fill social needs with low/no commercial returns
- Profits are seen as unnecessary

# Nonprofits Often Must Run Two Businesses: Mission & Subsidy



- Subsidy businesses take their own set of capacities to run
- **When program growth or change occurs, subsidies must grow in proportion**
- Cost reduction strategies can have serious consequences for the mission

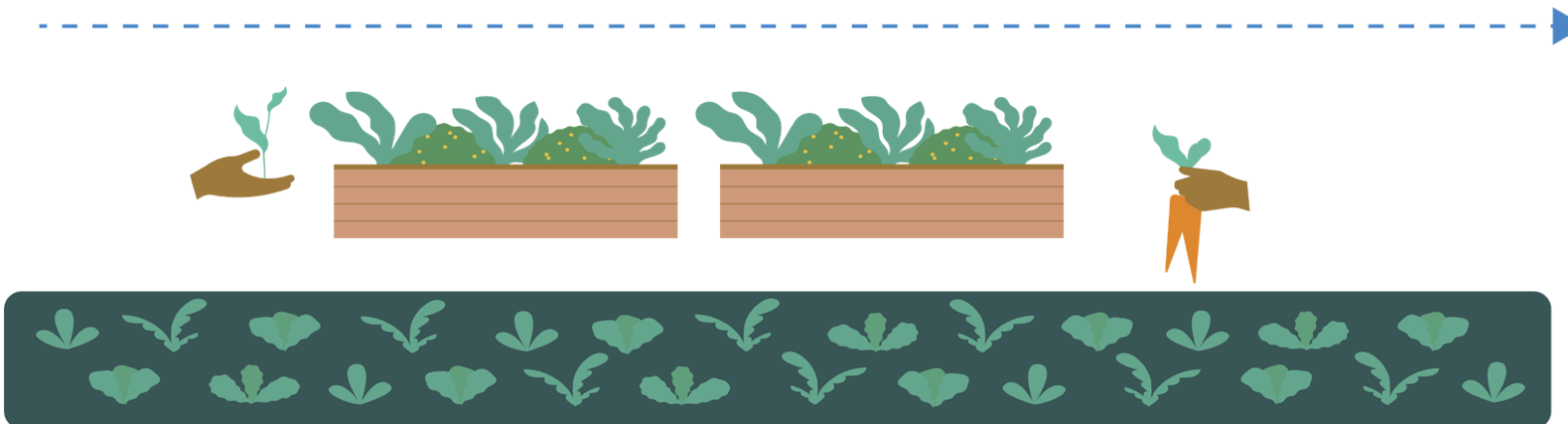
**Response & Relief** --▶ Weeks - Months



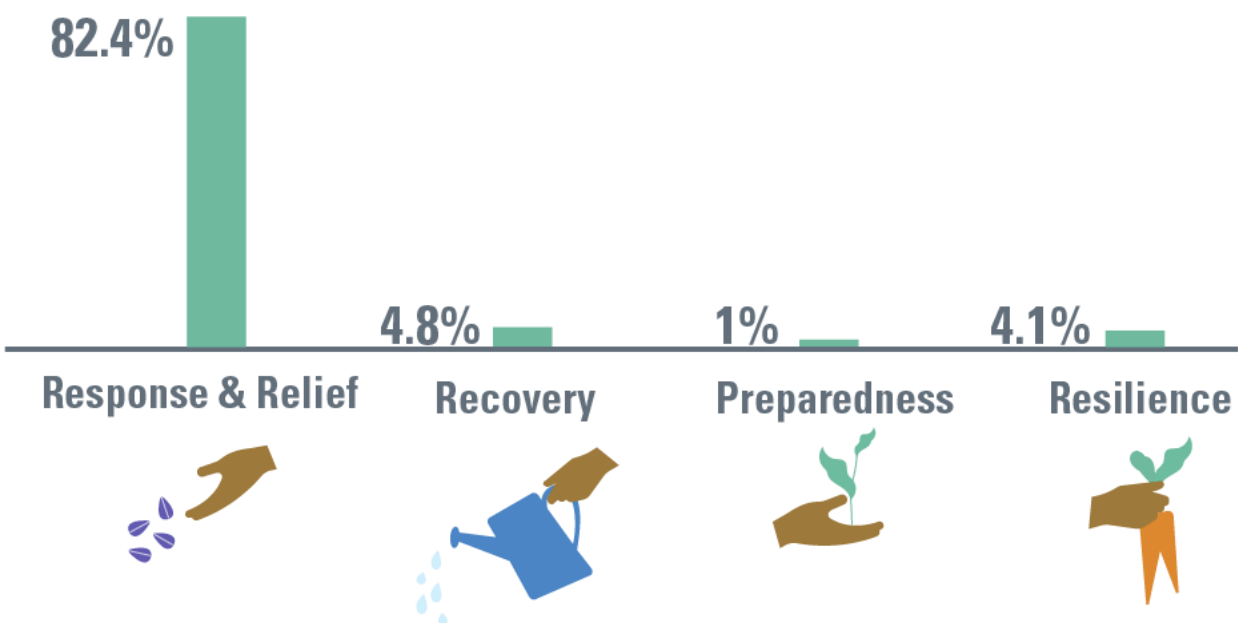
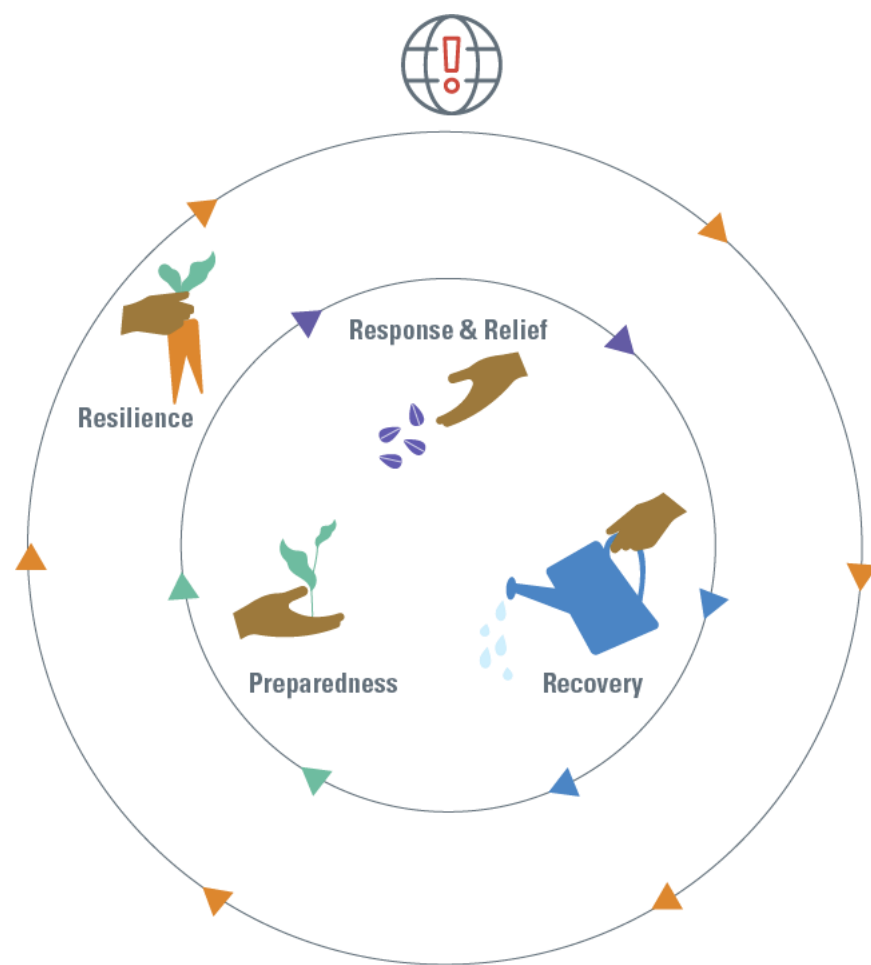
**Recovery** -----▶ Weeks - Months - Years



**Preparedness & Resilience** -----▶ Weeks - Months - Years - Decades



# Disaster Cycle and Funding Patterns



# What is Strategic Financial Management?

Taking care of your organization's financial systems

## Compliance

- Following all laws related to finance (state, federal, regional)
- Submitting required financial components of grant reports
- Adhering to rules outlined in your board bylaws (although these should also be strategic!)



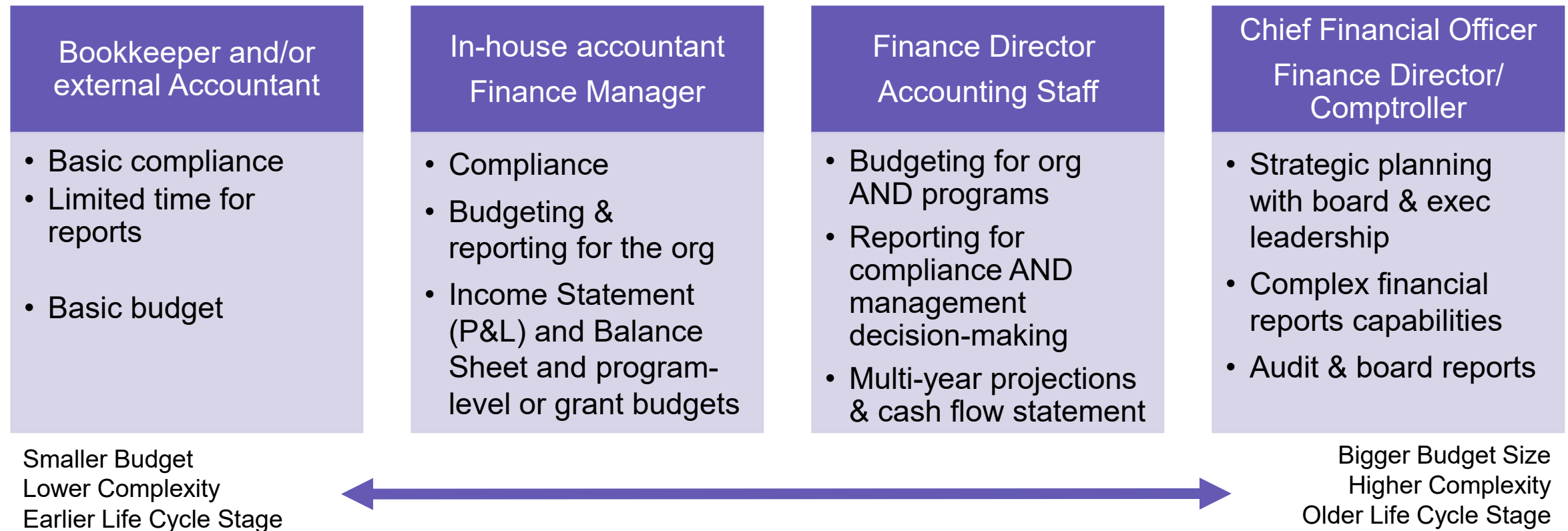
## Strategy & Management

- Budgeting processes
- Planning
- Collecting, reviewing, and analyzing financial data
- Making decisions that are informed by relevant, up-to-date financial data

# Financial teams depend on funding complexity, budget size, and life cycle

There is no one-size-fits-all structure!

**Goal:** A team that generates the info leadership needs to explain what is happening, make informed decisions, and communicate to stakeholders

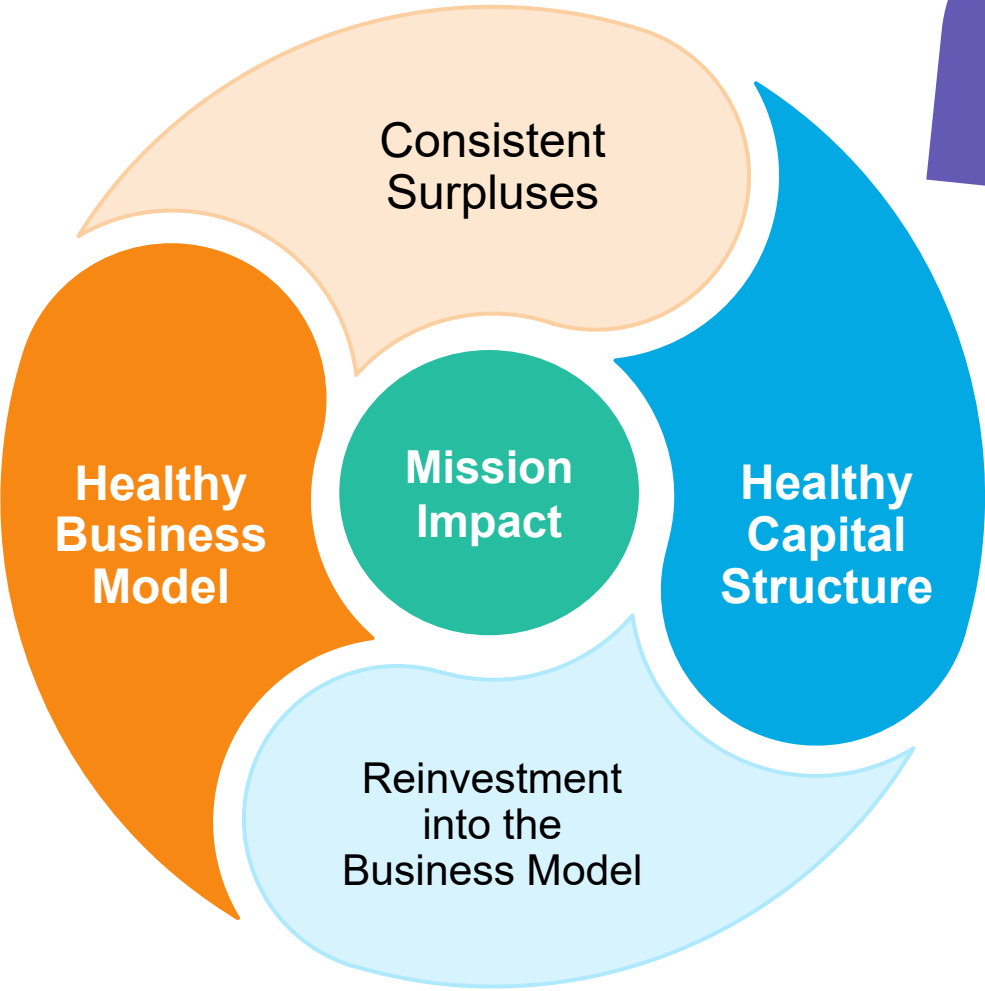


*Note: These are intended to illustrate the spectrum of finance capacity and should not be used as a benchmark.*



# Comprehensive Financial Health: Two Components

*Periodic  
Capital  
Infusions*



**Business Model**  
how an organization makes & spends money to serve its mission



**Capital Structure**  
the size and type of assets, liabilities, & net assets available to support an organization.



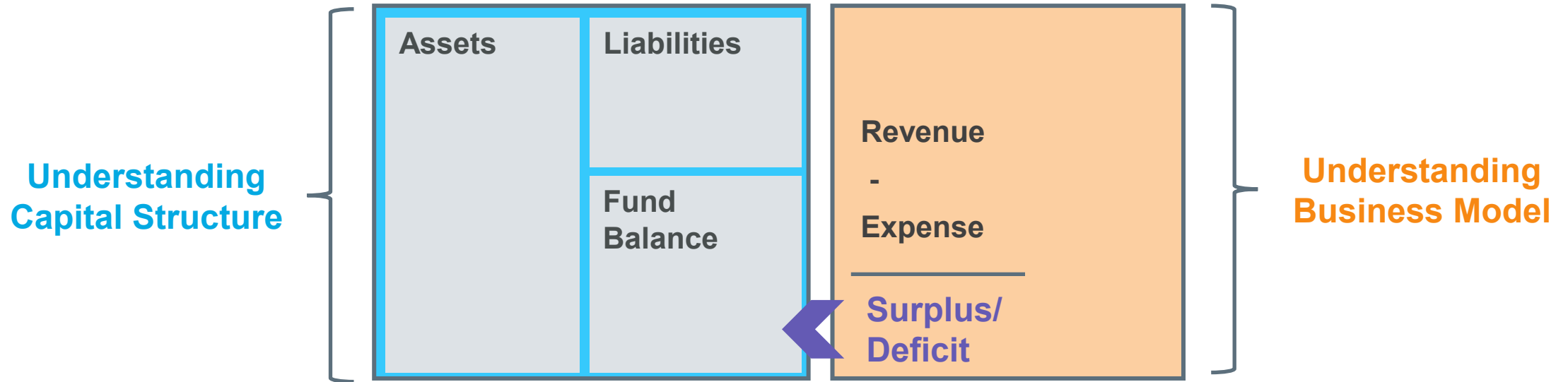
# Two Main Financial Statements: Balance Sheet and Income Statement

## Balance Sheet

(aka: Balance Sheet, Statement of Financial Position)

## Income Statement

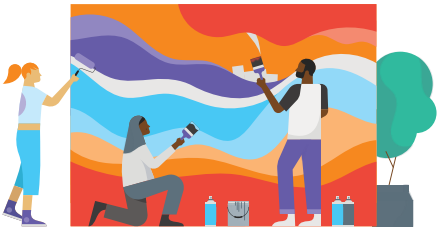
(aka: Income Statement, Statement of Activities, Profit & Loss)



- Financial data is best reviewed over time (i.e., a series of several months or years)

# How Does your Organization Make Money?

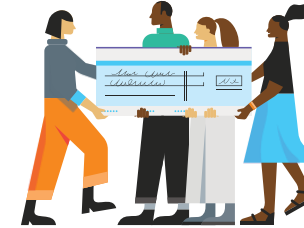
Earned Income



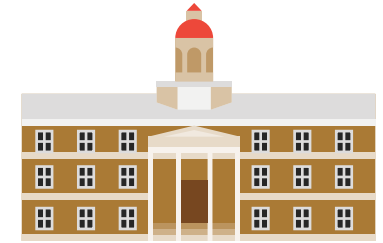
Individual Contributions



Foundations



Government



Each revenue source has its own strengths, risks, and associated costs

Planning for future revenue starts with understanding how our revenue mix has worked or not in the past and how that mix matches our capacity, plan, and expectations for the future



# How Does your Organization Spend Money?

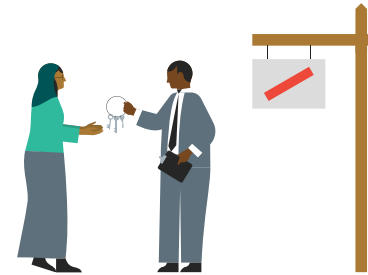
Personnel



Professional Fees



Occupancy



Support



Leaders should understand what financials “levers” they can pull to manage their expenses within the context of their mission and values

Any changes to revenue strategies or expense mixes should consider the interaction between revenue and expense

# How Does the Income Statement Reflect the Business Model?

## Income Statement

### Revenue

Earned  
Contributed  
    In-Kind Support  
    Private Sources  
    Government

### Expenses

Personnel  
Professional Fees  
Occupancy  
Support  
Interest  
In-Kind Expense

### Surplus / Deficit

### Revenue Dynamics

- Where did your money come from?
- Were revenue streams reliable or at risk?
- Was seasonality a factor?

### Expense Dynamics

- How did you spend your money?
- Were expenses predictable?
- Was management responsive to operating changes and prepared to make difficult decisions?

### Profitability & Savings

- Were costs covered?
- Were you able to achieve a surplus?

# How Does the Income Statement Reflect the Business Model?

## Income Statement

### Revenue

Earned

Contributed

In-Kind Support

Private Sources

Government

### Expenses

Personnel

Professional Fees

Occupancy

Support

Interest

In-Kind Expense

### Surplus / Deficit

A special note on In-Kind:

- In-Kind Support should be included in both revenue *and* expenses
- Even though it is non-cash support, it's a good or service your organization would need to cover if it were not donated
- In-Kind is reported on the 990, and you can determine an in-kind reporting and recognizing process with your accountant
- What is recognized as pro bono/in-kind: specialized skills vs direct service



# Revenue Diversity as Risk Strategy?

What the experts note...

“Different revenue streams come with unique transactional infrastructures (acquisition, compliance, reporting).”

- *Nonprofit Quarterly*

“Each revenue stream is essentially its own business line.”

- *The Chronicle of Philanthropy*

“A recent Bridgespan study showed that 90% of selected high-growth organizations had one dominant funding source.”

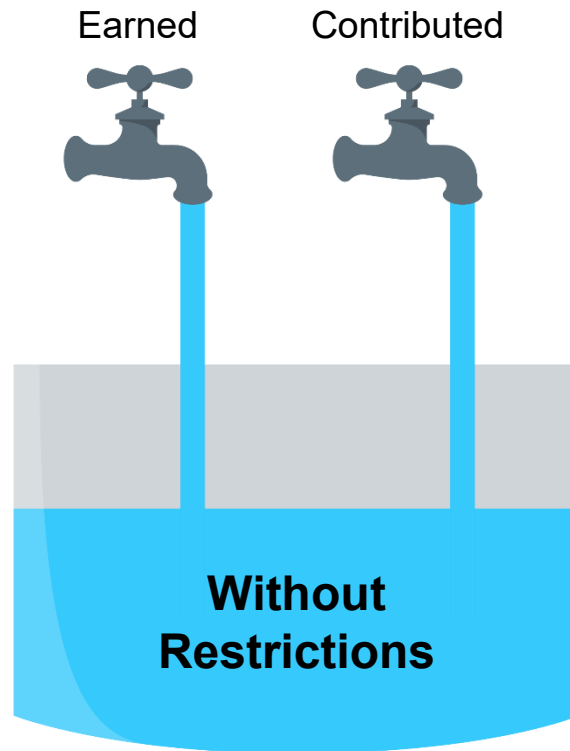
- *Stanford Social Innovation Review*



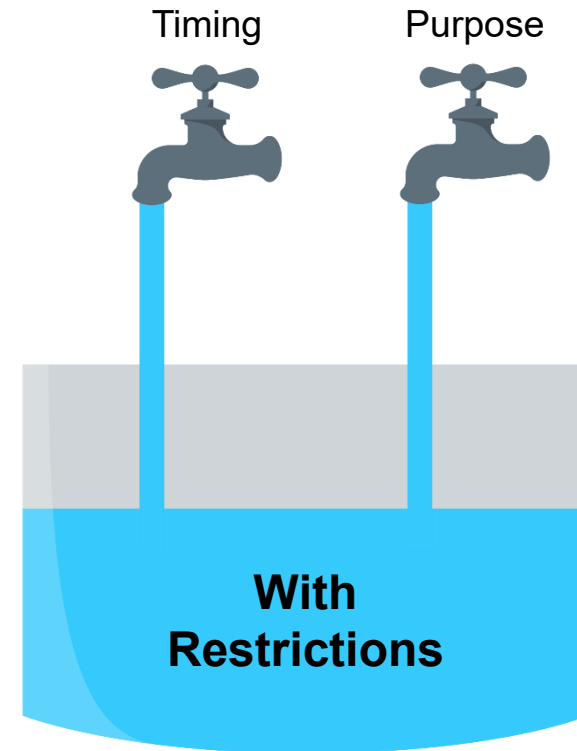
**Instead of focusing on revenue diversification, consider  
reliability and autonomy.**

# Revenue Flows into Two Buckets

## Revenue Without Restrictions



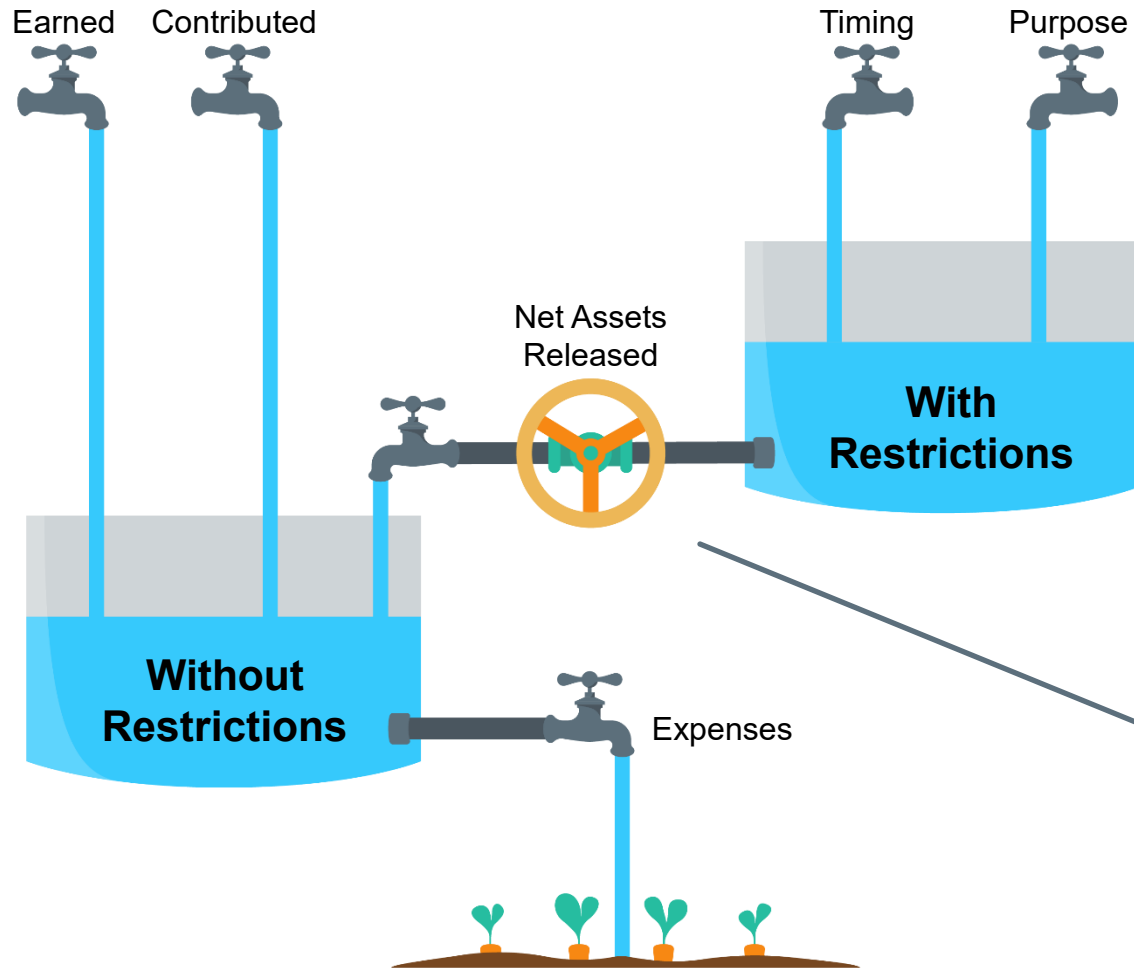
## Revenue With Restrictions



# Restrictions Affect the Flow of Money

## Revenue Without Restrictions

## Revenue With Restrictions



**Net assets released from restrictions** refers to the transfer of funds from net assets with donor restrictions to net assets without donor restrictions due to the satisfaction of donor-imposed stipulations with respect to timing or purpose of the contribution.

# Income Statement

## Cutting Through the Complexity!

### ABC Organization Statement of Activities

|                                                 |                                      | 2025                    |                      | 2024             |
|-------------------------------------------------|--------------------------------------|-------------------------|----------------------|------------------|
| Restrictions met,<br>funds available<br>for use | Revenue and Support                  | Without<br>Restrictions | With<br>Restrictions | Total            |
|                                                 | Program Fee income                   | \$139,909               |                      | \$139,909        |
|                                                 | Foundation grants                    | 222,759                 | 110,090              | \$332,849        |
|                                                 | Individual contributions             | 56,370                  |                      | \$56,370         |
|                                                 | Special events                       | 67,370                  |                      | \$67,370         |
|                                                 | Net assets released from restriction | 10,079                  | (10,079)             | \$0              |
|                                                 | <b>Total revenue and support</b>     | <b>\$496,487</b>        | <b>\$100,011</b>     | <b>\$596,498</b> |
|                                                 | Expenses                             |                         |                      |                  |
|                                                 | Personnel                            | \$232,210               |                      | \$232,210        |
|                                                 | Professional fees                    | 199,977                 |                      | \$199,977        |
| Multiple<br>bottom lines                        | Travel and supplies                  | 48,562                  |                      | \$48,562         |
|                                                 | Occupancy                            | 25,860                  |                      | \$25,860         |
|                                                 | Bank interest                        | 1,275                   |                      | \$1,275          |
|                                                 | <b>Total expenses</b>                | <b>\$507,884</b>        |                      | <b>\$507,884</b> |
|                                                 | <b>Surplus / (Deficit)</b>           | <b>(\$11,397)</b>       | <b>\$100,011</b>     | <b>\$88,614</b>  |
|                                                 |                                      |                         |                      | <b>\$22,181</b>  |

# Additional Nuance: Operating vs. Non-Operating

## Regular Operations vs. Extraordinary or Capital Activity

|                                                                                                  |               |                                    |
|--------------------------------------------------------------------------------------------------|---------------|------------------------------------|
| <b>Earned Revenue</b><br>(Patient Revenue, Contracts, Investment Income, etc.)                   | Operating     | <b>Debt Interest</b>               |
| <b>Contributions without Restrictions for Operations</b><br>(Grants for Current Year's Expenses) |               | <b>Depreciation</b>                |
| <b>Net Assets Released from Restrictions</b>                                                     |               | <b>Rent</b>                        |
|                                                                                                  |               | <b>Salaries</b>                    |
| Extraordinary One-time Gifts<br>(Bequests)                                                       | Non-operating | Capital Expenditures<br>(Facility) |
| Investment Gains & Losses<br>(Non-income investment value changes)                               |               | Re-grants                          |
| Pass-through Revenue<br>(Re-grants, Scholarships)                                                |               |                                    |
| Capital Contributions<br>(Campaign)                                                              |               |                                    |
| <b>Total Revenue</b>                                                                             |               | <b>Total Expenses</b>              |

# Non-operating activity on the income statement

## Operating Revenue

Earned

Contributed

### Revenue Dynamics

- Operating revenue = Regular, reliable, repeatable
- Where does the organization's money come from?

## Operating Expenses

Personnel

Occupancy

Support and Programs

### Expense Dynamics

- Operating expenses = regular costs of running the organization
- How do expenses support the mission?

## Operating Surplus / Deficit

### Profitability & Savings

- Are costs covered?
- Does the organization have enough left over to build savings?

**Remember surpluses are healthy!**

## Non-operating activity

### Non-operating activity

- Activities that aren't predictable year over year and are not core to the business model.



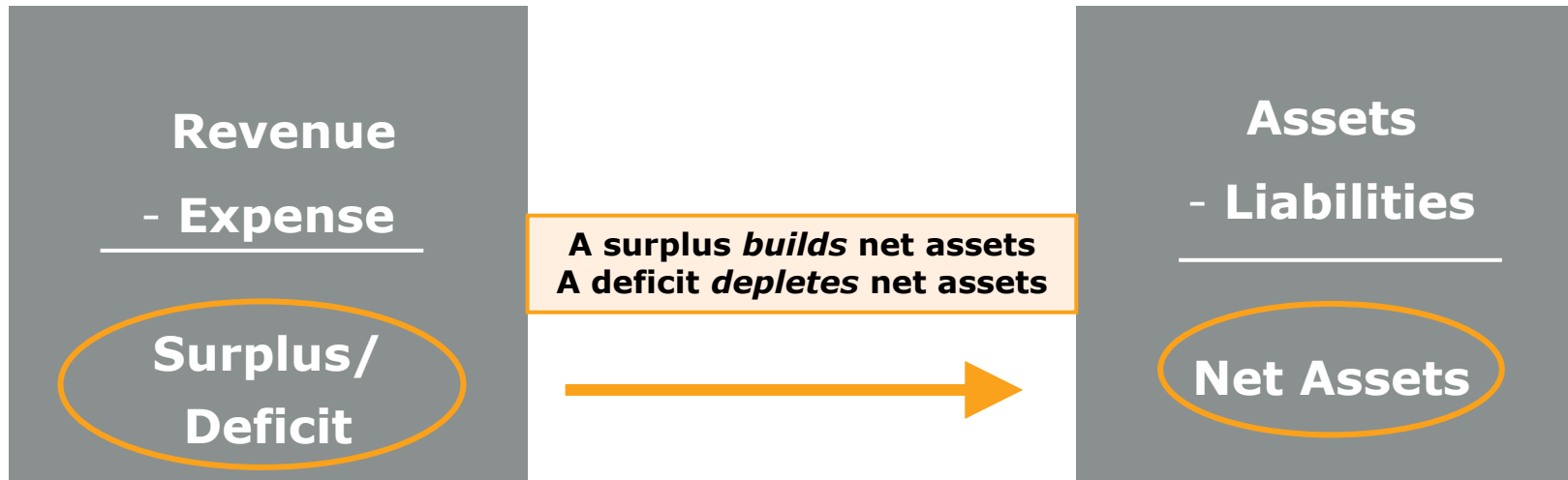
# Business Model and Capital Structure Are Connected



Business Model  
(Income Statement)  
*Annual results of operations*



Capital Structure  
(Balance Sheet)  
*Snapshot of overall financial health*



# What Does Capital Structure Look Like?

Business Model  
*Annual results of  
operations*



Capital Structure  
*Snapshot of overall  
financial health*



- **Capitalization** = alignment of balance sheet resources with short-term & long-term mission and impact goals
- **Balance sheet needs** = items beyond the income statement



**Mis-Capitalized**



**Under-Capitalized**



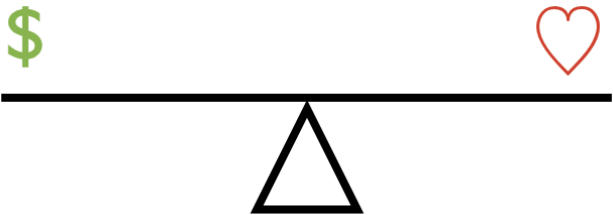
**Well-Capitalized**

# How to Read the Balance Sheet

$$\text{Assets} - \text{Liabilities} = \text{Net Assets}$$

## Balance Sheet

| Statement of Financial Position         |                                                            |
|-----------------------------------------|------------------------------------------------------------|
| <b>Assets</b><br>What organizations OWN | <b>Liabilities</b><br>What organizations OWE               |
|                                         | <b>Net Assets</b><br>What organizations OWN free and clear |



# Balance Sheet

| ABC Organization                          |                  |                  |
|-------------------------------------------|------------------|------------------|
| Statement of Financial Position           |                  |                  |
|                                           | 2025             | 2024             |
| Assets                                    | Total            | Total            |
| Cash and cash equivalents                 | \$10,455         | \$13,671         |
| Accounts receivable                       | 17,027           | 17,829           |
| Grants and pledges receivable             | 52,845           | 68,654           |
| Property & equipment, net                 | 256,041          | 262,036          |
| <b>Total Assets</b>                       | <b>\$336,368</b> | <b>\$362,190</b> |
|                                           |                  |                  |
| Liabilities                               |                  |                  |
| Line of credit                            | \$60,000         | \$58,000         |
| Accounts payable                          | 2,652            | 8,772            |
| Deferred revenue                          | 5,600            | 6,240            |
| Mortgage payable                          | 262,750          | 278,300          |
| <b>Total Liabilities</b>                  | <b>\$331,002</b> | <b>\$351,312</b> |
|                                           |                  |                  |
| Net Assets                                |                  |                  |
| Net Assets Without Restrictions           | \$4,001          | \$8,622          |
| Net Assets With Restrictions              | 1,365            | 2,256            |
| <b>Total Net Assets</b>                   | <b>\$5,366</b>   | <b>\$10,878</b>  |
| <b>Total Liabilities &amp; Net Assets</b> | <b>\$336,368</b> | <b>\$362,190</b> |

| Balance Sheet |             |
|---------------|-------------|
| Assets        | Liabilities |
|               | Net Assets  |

# Assets

Is there enough of what the organization really needs?

## What organizations have

- Cash - in bank accounts, investment accounts, and petty cash
- Fixed assets - furniture, equipment, property, facility, and improvements to a facility
- Prepaid expenses - payments made for goods or services that have not yet been received or used

## What organizations have invested in

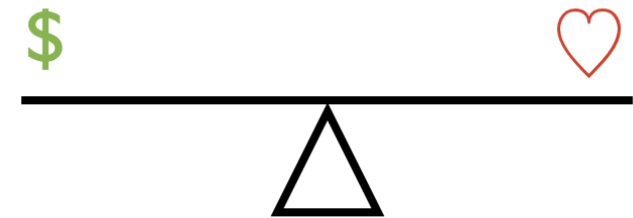
- Long-term investments - with or without restrictions

## What is owed to organizations

- Grant/pledges receivable – grant awards promised but not yet received
- Accounts receivable - revenue earned from services provided for which payment has not been received
- Loans receivable - loans made to others

## What organizations have deposited with others

- Deposits - cash held by others



# Liabilities

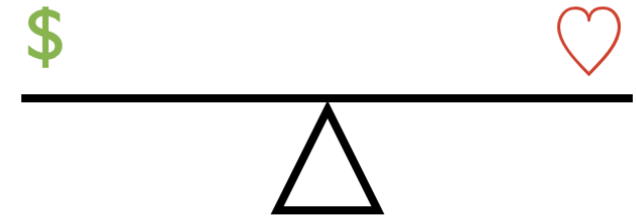
Are the obligations manageable?

## What organizations owe

- Accounts payable - money owed by an organization to its suppliers and/or vendors for goods or services purchased
- Accrued expenses (including payroll liabilities) - items incurred during an accounting period for which payment is postponed.
- Debt - An amount owed to a person or organization for money borrowed.
  - Line of credit - a loan in which the lender allows advances up to a specific amount over a specific period of time until the maturity date.
  - Current debt – obligations due one year or less from the date of a financial statement.
  - Long-term debt: obligations due in longer than one year. It includes multi-year term loans, mortgage loans, and capitalized long-term leases.

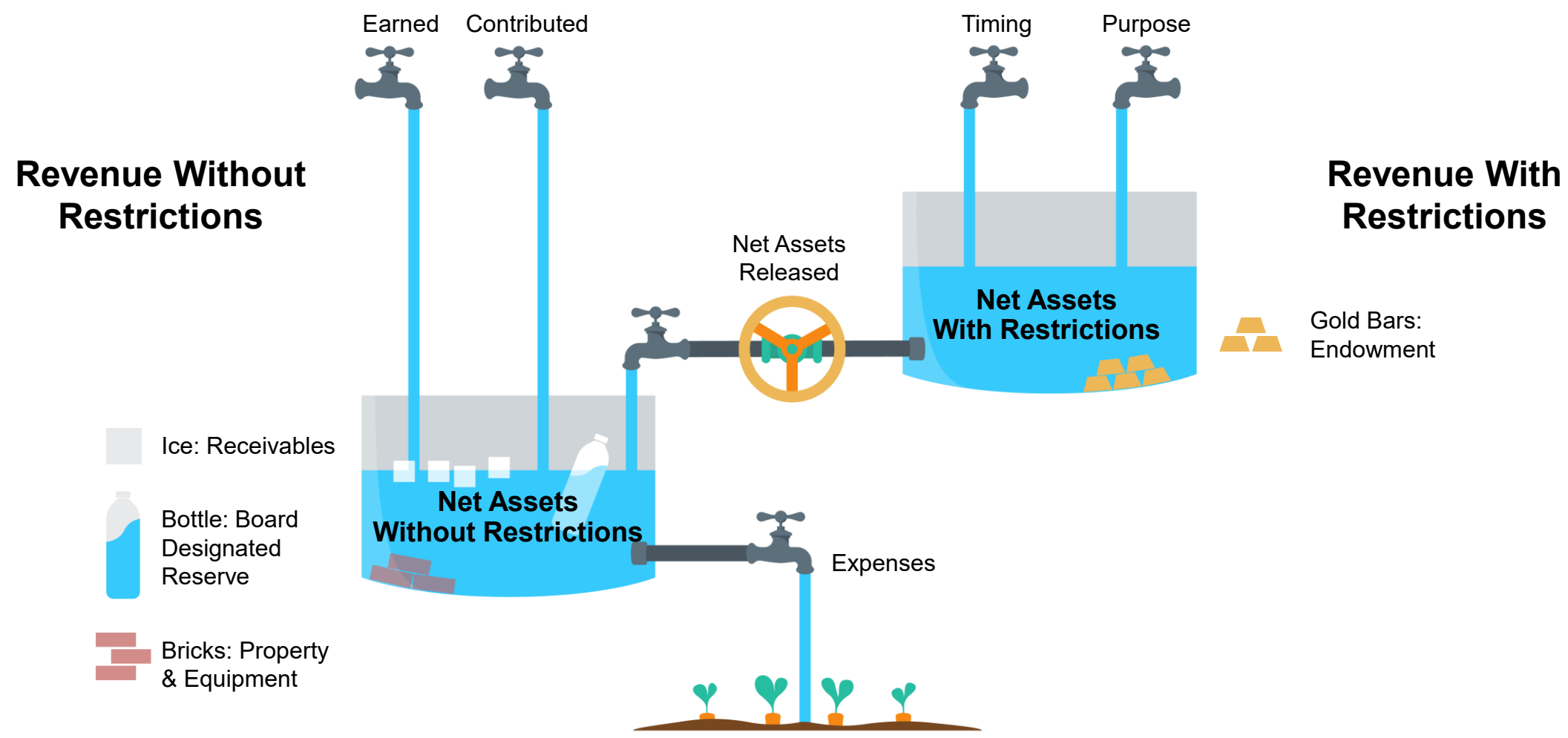
## What organizations hold on behalf of others

- Deferred revenue or refundable advances - Payment received from a client for a transaction that has not yet occurred

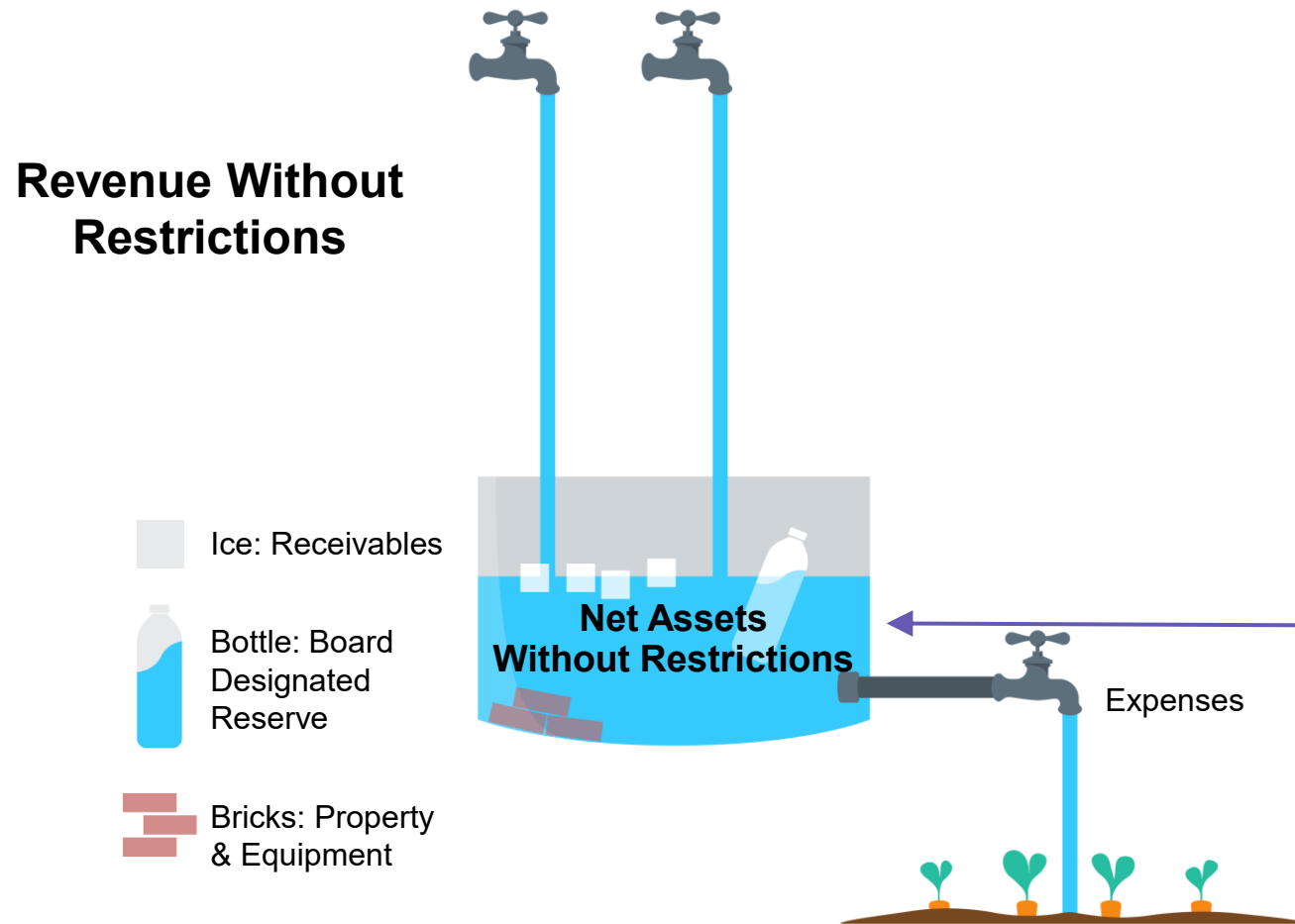




# A Closer Look at Net Asset Composition



# Liquidity and Availability



## Balance Sheet

### Assets

- Cash
- Receivables
- Investments
- Property and Equipment

### Liabilities

- Payables
- Line of Credit, Debt
- Deferred Revenues

### Net Assets

- Net Assets Without Restrictions
- Net Assets With Restrictions

# Financial Adaptability and Risk Capacity

An organization's ability to **adapt and mitigate risk** is influenced by the resources it has on hand.

If an organization has...

- Plenty of unrestricted cash and receivables
- A fully available line of credit
- Sufficient reserves available to management
- Little to no wear-and-tear of fixed assets
- Reoccurring surpluses

...then it has **high capacity for risk or change**.

**Liquidity** and **availability** of balance sheet resources can provide insight into risk capacity.

# Measures of Financial Adaptability

## Cash: Measuring Liquidity

Ability of an organization to cover short term obligations and day-to-day expenses

$$\text{Months of Cash} = \frac{\text{Total Cash}}{(\text{Total Expenses} / 12)}$$

## Available Net Assets: Measuring Available Resources

An organization's safety net; ability to navigate risk and pursue opportunities

$$\text{Months of Available Net Assets (ANA)} = \frac{\text{Total Net Assets Without Restrictions} - (\text{P\&E} - \text{P\&E Debt})}{(\text{Total Expenses} / 12)}$$

# Take Your Financial Pulse, Now and Over Time

|                                                         | “Room to Breathe”                                                                | “Making It Work”                                                                                                                | “Vulnerable to Shocks”                                                                                                                                      | “Need to Take Action Now”                                                                                                                   |
|---------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Operating Surplus/Deficit                            | <u>Consistent surpluses</u>                                                      | <u>Smaller surpluses</u>                                                                                                        | <u>Variable operating results</u>                                                                                                                           | <u>Regular or sizable deficits</u>                                                                                                          |
| 2. Months of Cash                                       | <u>6+ months</u>                                                                 | <u>2-5 months</u>                                                                                                               | <u>1-2 months</u>                                                                                                                                           | <u>&lt;1 month</u>                                                                                                                          |
| 3. Months of Available Net Assets                       | <u>6+ months</u>                                                                 | <u>2-5 months</u>                                                                                                               | <u>1-2 months</u>                                                                                                                                           | <u>&lt;1 month</u>                                                                                                                          |
| <b>Other Financial Signs</b>                            | <i>Strong business model, healthy balance sheet, resources to adapt</i>          | <i>Working business model, modest balance sheet, modest surpluses (on average)</i>                                              | <i>Unpredictable business model, thin balance sheet, uneven profitability or breakeven</i>                                                                  | <i>Weak business model, Heavily leveraged balance sheet</i>                                                                                 |
| <b>Implications for managing risk &amp; opportunity</b> | Can tolerate risk and jump on opportunities. Are there possibilities for growth? | Limited ability to withstand risks and pursue opportunities. Can you maintain surpluses so long-term stability is not affected? | Little tolerance for risk, opportunities can be risky for stability. Focus on nimble decision-making to generate surpluses while maximizing mission impact. | No room for error, opportunities should focus on ways to avoid deficits while maximizing mission impact. Nimble decision-making is crucial. |

\* The above is a guide, not an absolute benchmark. Numbers must be contextualized with the organization's experience

# What Trends Do You See?

---

## Income Statement

- **Profitability & Savings:** Were costs covered? Were surpluses sufficient to contribute to the organization's full costs, such as savings for reserves or investments in fixed assets?
- **Revenue Dynamics:** How does the organization make money? Has revenue composition changed over time? Are revenue streams reliable or at risk?
- **Expense Dynamics:** How does the organization spend money? Are expenses predictable? Is management responsive to operating changes and prepared to make difficult decisions?

---

## Balance Sheet

- **Health of Balance Sheet:** Are the size, nature and distribution of assets, net assets and liabilities appropriate to support the organization's business and programs over the long term?
- **Liquidity:** Is there enough cash available to cover current obligations? Is cash restricted or spoken for? Does the organization have reserves available to navigate risk or pursue opportunity?



# Reflections, Questions?



# We want to hear from you!

Before you leave, complete [this short poll](#).

Nonprofit Finance Fundamentals:  
Financial Management 101



# Thank You!

If you have questions about today's webinar,  
please contact [nff.wildfirerecovery@nff.org](mailto:nff.wildfirerecovery@nff.org)

If you have specific questions about your grant,  
please feel free to reach out to California  
Community Foundation, [lawildfires@calfund.org](mailto:lawildfires@calfund.org)



# Different Types of Financial Documents

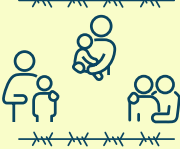
*What they are, how they're used, and who sees them*

| Income Statement /<br>Statement of Activities                                                                                                                                                                              | Balance Sheet /<br>Statement of<br>Financial Position                                                                                                                                                                                                                                   | Budget                                                                                                                                                                                                                                                                                                                                              | IRS Form 990                                                                                                                                                                                                                                                                                     | Audit                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Revenue and expenses</li><li>• Shows how the organization's revenue was managed</li><li>• Reflects the business model</li><li>• Can be both internal and external facing</li></ul> | <ul style="list-style-type: none"><li>• Shows what an organization owns (assets) vs what it owes (liabilities)</li><li>• Snapshot in time of overall financial health</li><li>• Reflects capital structure of organization</li><li>• Can be both internal and external facing</li></ul> | <ul style="list-style-type: none"><li>• Internal planning document for the fiscal year</li><li>• Shows whether or not the organization will have enough revenue to cover expenses for that given year</li><li>• Shows where revenue will come from</li><li>• Can be internal facing for staff and board, can also be requested by funders</li></ul> | <ul style="list-style-type: none"><li>• US government reporting form that many federally tax-exempt organizations must file with the IRS each year</li><li>• Does not show unrestricted vs restricted revenue or operating and non-operating revenue</li><li>• Available to the public</li></ul> | <ul style="list-style-type: none"><li>• Process and product of an Independent Auditor's Report provided by an independent certified public accountant (CPA)</li><li>• Based on financial reports</li><li>• Made available to the public</li><li>• Can be requested by funders</li></ul> |



# The Ripple Effect of Federal Actions

We're in a defining moment where actions by the federal government are putting our communities at risk and causing significant strain and demand on nonprofits. From health clinics to afterschool programs, to food banks, museums, and senior centers — nonprofits provide essential services and are often the first to step up in times of crisis.

| FEDERAL ACTIONS                                                                                                                                       | AFFECT ON PEOPLE                                                                                                                                                                                                       | IMPACT ON NONPROFITS                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  <b>CUTS</b> to SNAP                                                 | <b>4 MILLION</b> children, seniors, veterans, and people with disabilities will be cut off from food assistance <sup>1</sup>                                                                                           |  <b>20-50%</b> increase in demand for food aid nonprofits <sup>2</sup>                                                                                                                                                                                 |
|  <b>CUTS &amp; RESTRICTIONS</b> on Medicaid                          | <b>10.9 MILLION</b> will lose Medicaid coverage by 2034 <sup>3</sup>                                                                                                                                                   |  <b>1.7M</b> increase in uninsured patients at community health centers <sup>4</sup>                                                                                                                                                                   |
|  <b>ICE RAIDS</b> in workplaces, churches, clinics, and schools       |  <b>HUNDREDS OF THOUSANDS</b> <sup>5</sup> detained and separated from their families                                                |  <b>3-10X</b> increase in demand for immigrant and legal aid <sup>6</sup><br> <b>55%</b> of nonprofits impacted by immigration-related policy changes <sup>7</sup> |
|  <b>FUNDING CUTS</b> to science, health and environmental research | <b>REDUCED ACCESS</b> to information and treatment related to cancers, disease, and other health inequities                                                                                                            |  <b>5000+</b> research projects valued at <b>\$10.6B</b> <sup>8</sup> will need alternative funding                                                                                                                                                  |
|  <b>CLOSURE</b> of the Corporation for Public Broadcasting         | <b>MILLIONS</b> in rural and low income communities could lose access to emergency alerts, educational programming & local news <sup>9</sup>                                                                           |  <b>OFF</b> Facing potential shut down: <b>33%</b> of public radio stations <sup>10</sup> <b>15%</b> of public TV stations <b>60%</b> of tribal radio stations <sup>11</sup>                                                                         |
|  <b>DE-FUNDING &amp; ELIMINATION</b> of DEI                        |  <b>MILLIONS</b> face reduced access, opportunity, & voice — especially women, people of color, LGBTQ+, & people with disabilities. | <b>61%</b> of nonprofits impacted by DEI pullback.<br><b>45%</b> impacted by policies and backlash against LGBTQ+ rights. <sup>12</sup>                                                                                                                                                                                                   |



**Funders and donors are uniquely positioned to use their power and resources to meet this moment.**

*By understanding the effects of federal actions, listening to nonprofits, practicing trust-based philanthropy and speaking up, funders can be powerful stewards in shaping a healthy and inclusive future for us all.*

## Nonprofit Impact At-A-Glance

### INCREASE IN DEMAND

80%



2024

85%



2025\*

Nonprofits reporting and/or anticipating\* increased demand from previous year

Source: *Nonprofit Finance Fund*

### LOSS OF CAPACITY

84%

Gov't-funded orgs expecting decreases in gov't funding



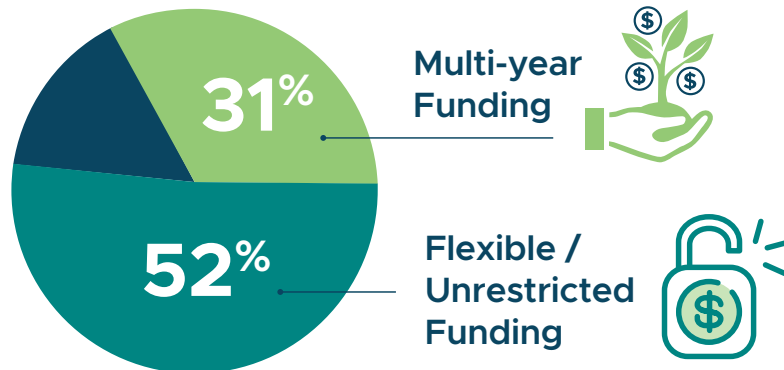
90%

Nonprofits concerned about burnout



Sources: *Nonprofit Finance Fund* (top) and *Center for Effective Philanthropy* (bottom)

According to the Nonprofit Finance Fund's 2025 report, nonprofits' #1 most reported needs from foundations are unrestricted and multi-year funding:



## Other Actions Funders Can Take to *meet the moment*



**Increase** your giving levels to address growing needs.

**Reduce** barriers to funding by being clear and transparent in your grant criteria.

**Simplify** and streamline applications and reports.



**Advocate** for the vital role of nonprofits, especially to policymakers and other donors.

**Amplify** positive stories and messages about your grantees.

**Publicly share** what you are doing to meet the moment



**Fund** connection, ideation, restoration, and reimagination.

**Invest in leaders** who are reimagining mission-delivery in a wildly different climate.

**Fund advocacy**, lobbying, and organizing to protect and defend democratic freedoms

Join the growing community of funders **taking bold, trust-based action.**



Sign the pledge:  
[trustbasedphilanthropy.org/meet-the-moment](https://trustbasedphilanthropy.org/meet-the-moment)

**Additional Resources:** The National Council on Nonprofits provides up-to-date information and analysis on how the current climate is affecting nonprofits. For more information, explore [Impacts of Recent Executive Orders on Nonprofits](#) and [Executive Orders on Nonprofits](#).



For a deeper dive into data: download [Nonprofit Finance Fund's 2025 State of the Nonprofit Sector Report](#) and the [Center for Effective Philanthropy's State of Nonprofits 2025: What Funders Need to Know](#)



## Analysis of the 2025 Tax Bill and Its Impact on Charitable Nonprofits

Updated September 12, 2025

On July 4, President Trump signed into law [H.R. 1](#), formerly known as the “One Big Beautiful Bill Act,” which directly impacts nonprofits and their ability to serve communities nationwide.

### Provisions Included in Final Tax Bill

Below are key provisions impacting the nonprofit sector that were included in the final tax package.

| Issue                                                        | House Bill                                                                                                                                                 | Senate Bill    | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1% Floor for Charitable Contributions by Corporations</b> | Impose a 1% floor for the deduction for charitable contributions made by corporations and allow corporations to carry forward the tax benefit for 5 years. | Same as House. | <p>NCN opposed this provision.</p> <p>The final bill imposes a 1% floor for the deduction for charitable contributions made by corporations and allows corporations to carry forward the tax benefit for 5 years.</p> <p>Floors and ceilings on charitable giving create artificial limitations on the incentive to give to charitable organizations.</p> |

| Issue                                   | House Bill                                                                                                                                                                                                                                                                                                   | Senate Bill                                                                                                                                             | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Limits on Itemized Deductions</b>    | <p>Cap the value of the charitable deduction for high income taxpayers in the 37% tax bracket to 2/37 (~35%). The amount may be further reduced by any state and local tax (SALT) deduction a taxpayer claims, which is capped at 5/37 (~32%).</p> <p>This provision changed in the final House version.</p> | <p>Same cap as original House version, which reduced the value of the charitable deduction by 2/37 (~35%).</p> <p>Create a .5% floor for itemizers.</p> | <p>NCN opposed this provision.</p> <p>The final bill reduces value of the charitable deduction by 2/37 (~35%) and creates a 0.5% floor for itemizers.</p> <p>These changes will reduce the incentive for and amount of charitable giving.</p>                                                                                                                                                                  |
| <b>Incentives for Charitable Giving</b> | <p>Reinstate a partial tax deduction of \$150 single/\$300 joint filers for charitable contributions for nonitemizers through 2028.</p>                                                                                                                                                                      | <p>Make permanent a partial tax deduction of \$1,000 single/\$2,000 joint filers for charitable contributions for nonitemizer.</p>                      | <p>NCN supported this provision.</p> <p>The final bill permanently authorizes a partial, universal tax deduction of \$1,000 single/\$2,000 joint filers for charitable contributions for non-itemizers.</p> <p>This provision further incentivizes charitable giving among the 90% of taxpayers who do not itemize their tax deductions, bolstering the work done in communities by charitable nonprofits.</p> |

| Issue                                    | House Bill                                                                                                                                                                                                                                                                                                                                                                                                      | Senate Bill                                                                                                                                                                                                                                                                                                 | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>College and University Endowments</b> | <p>Apply a 1.4% tax to colleges and universities with a “student adjusted endowment” between \$500,000 and \$750,000.</p> <p>Colleges and universities with an endowment between \$750,000 and \$1.25 million would pay a 7% tax rate.</p> <p>Those with an endowment between \$1.25 million and \$2 million would pay a 14% tax rate.</p> <p>Endowments greater than \$2 million would pay a 21% tax rate.</p> | <p>Apply a 1.4% tax to colleges and universities with a “student adjusted endowment” between \$500,000 and \$750,000.</p> <p>Colleges and universities with an endowment between \$750,000 and \$2 million would pay a 4% tax rate.</p> <p>Endowments greater than \$2 million would pay a 8% tax rate.</p> | <p>NCN opposed this provision.</p> <p>The final bill applies a 1.4% tax to colleges and universities with a “student adjusted endowment” between \$500,000 and \$750,000. Colleges and universities with an endowment between \$750,000 and \$2 million would pay a 4% tax rate. Endowments greater than \$2 million would pay a 8% tax rate.</p> <p>The final bill increases the number of tuition-paying students a school must have in order to be subject to the excise tax.</p> <p>Taxes on endowments or investment assets decrease the financial resources available to nonprofits to advance their mission.</p> |
| <b>Estate and Gift Tax</b>               | <p>Permanently extend the estate and lifetime gift tax exemption to \$15 million for single filers, and \$30 million for married filing jointly in 2026.</p> <p>Index the amount exempted for inflation moving forward.</p>                                                                                                                                                                                     | <p>Same as House.</p>                                                                                                                                                                                                                                                                                       | <p>NCN opposed this provision.</p> <p>The final bill permanently extends the estate and lifetime gift tax exemption to \$15 million for single filers, and \$30 million for married filing jointly in 2026, and it indexes the amount exempted for inflation moving forward.</p> <p>Donors could reduce any estate and lifetime tax liability by making charitable donations.</p>                                                                                                                                                                                                                                       |

| Issue                                         | House Bill                                                                                                                                                                                                                                                                                                          | Senate Bill    | Final Enacted Bill & Impact                                                                                                                                                                                                                      |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Highly Compensated Nonprofit Employees</b> | Expand the 21% excise tax on nonprofits that exceed \$1 million in compensation to any employee, including a former employee.                                                                                                                                                                                       | Same as House. | <p>The final bill expands the 21% excise tax on nonprofits that exceed \$1 million in compensation to additional covered employees.</p> <p>This reduces resources available to nonprofits to serve their missions.</p>                           |
| <b>Paid Family and Medical Leave Credit</b>   | <p>Make the credit permanent.</p> <p>Allow employers to claim the credit for a portion of paid family leave insurance premium.</p> <p>Make the credit available to all states.</p> <p>Lower the minimum employee work requirement to 6 months.</p>                                                                  | Same as House. | <p>NCN urged Congress to enact further changes to allow nonprofits to claim the tax credit as they are tax exempt and do not pay income taxes.</p> <p>The final bill, however, does not allow charitable nonprofits to claim the tax credit.</p> |
| <b>Employer-Provided Child Care Credit</b>    | <p>Permanently increase the maximum credit to \$500,000 and the percentage of qualified child care expenses to 40%.</p> <p>Eligible small businesses qualify for a maximum credit of \$600,000 and the percentage of qualified expenses covered would be 50%.</p> <p>Index maximum credit amount for inflation.</p> | Same as House. | <p>NCN urged Congress to enact further changes to allow nonprofits to claim the tax credit as they are tax exempt and do not pay income taxes.</p> <p>The final bill, however, does not allow charitable nonprofits to claim the tax credit.</p> |

| Issue                     | House Bill                                                                                 | Senate Bill                                                                               | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                    |
|---------------------------|--------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard Deduction</b> | Increases the standard deduction by \$1,000 (single)/ \$2,000 (joint filers) through 2028. | Increases the standard deduction by \$1,500 (single)/\$1,000 (joint filers) through 2029. | <p>The final bill increases the standard deduction by \$750 (single) and \$1,500 (joint filers). These amounts will increase with inflation each year.</p> <p>This further limits the number of tax filers who itemize their deductions, including for donations to charitable nonprofits.</p> |

## Provisions Not Included in Final Tax Bill

Thanks to the effective advocacy of nonprofit organizations and our congressional champions, the following provisions were excluded from the final tax package.

| Issue                                                                          | House Bill                                                                                                                                                                                                                 | Senate Bill   | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Revoking Nonprofit Tax-Exempt Status</b>                                    | <p>Allow the Secretary of the Treasury to revoke the tax-exempt status of nonprofits designated as “terrorist supporting organizations” without full evidence or due process.</p> <p>Removed from final House version.</p> | No provision. | <p>The final bill did not include this provision, which NCN opposed.</p> <p>This would have granted unprecedented authority to the Executive Branch to target charitable organizations on ideological grounds. Nonprofit organizations wrongfully designated would have been irreparably harmed, losing the trust of donors and the communities they serve.</p>                 |
| <b>Unrelated Business Income Tax Expanded to Cover Name and Logo Royalties</b> | <p>Sale or licensing of name or logo will be considered unrelated business income.</p> <p>Removed from final House version.</p>                                                                                            | No provision. | <p>The final bill did not include this provision, which NCN opposed.</p> <p>Expanding the items considered UBI could have decreased the assets available for nonprofit organizations to fulfill their mission.</p>                                                                                                                                                              |
| <b>Unrelated Business Income Tax on Transportation Benefits</b>                | <p>Increase and expand to include qualified transportation fringe benefits, such as transit or parking benefits, for charitable nonprofits. There is an exception for church-affiliated organizations.</p>                 | No provision. | <p>The final bill did not include this provision, which NCN opposed.</p> <p>This provision would have taken revenue away from charitable nonprofits’ mission related programs and services. A similar provision was repealed after the 2017 tax law because of its confusing nature of applying an income tax on an expense and the difficulty of quantifying the benefits.</p> |



| Issue                                       | House Bill                                                                                                                                                                                                                                                                                                                                                                               | Senate Bill    | Final Enacted Bill & Impact                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Foundation Excise Tax</b>                | <p>Increase the current tax rate of 1.39 % on net investment assets to private foundations with over assets over \$50 million.</p> <p>Apply a tax rate of 2.78% to private foundations with assets of between \$50 million and \$250 million; 5% on those with assets of between \$250 million and \$5 billion; and 10% to private foundations with assets greater than \$5 billion.</p> | No provision.  | <p>The final bill did not include this provision, which NCN opposed.</p> <p>This would have greatly reduce financial resources available to nonprofits and the amount given by philanthropy.</p>                                                                                                                                                                                                        |
| <b>Employee Retention Tax Credit (ERTC)</b> | <p>Bar the Internal Revenue Service from issuing any unpaid ERTC claims unless a claim was filed on or before January 31, 2024.</p> <p>Removed from final House version.</p>                                                                                                                                                                                                             | Same as House. | <p>The final bill disallows pending ERTC claims related to the third and fourth quarter of 2021 if submitted after January 31, 2024. It extends the timeframe for a possible IRS audit to six years rather than the normal three years. The bill also expanded the erroneous refund penalty provisions previously applicable to income tax liabilities to employment tax liabilities from the ERTC.</p> |

## Resources

- Senate Bill Text: [Finance Tax Draft](#)
- [Major Tax Package Advances in the Senate! Call Your Members of Congress Today!](#), National Council of Nonprofits, June 17, 2025.
- House Bill Text: [One Big Beautiful Bill Act](#) (H.R. 1).
- Manager's Amendment: [Rules Committee Print 119-3](#).
- [Major Tax Package Heads to the Senate. Call TODAY to Protect Nonprofits!](#), National Council of Nonprofits, May 22, 2025.

Find more information from the National Council of Nonprofits at [www.councilofnonprofits.org](http://www.councilofnonprofits.org). To stay up to date on policy developments affecting nonprofits at the federal, state, and local levels, subscribe for free to Nonprofit Champion at [www.councilofnonprofits.org/connect](http://www.councilofnonprofits.org/connect).



# THE BIG, UGLY BILL:

## *What H.R. 1*

## *Means for Nonprofits*

---



**CALIFORNIA  
MEDICAL  
ASSOCIATION**



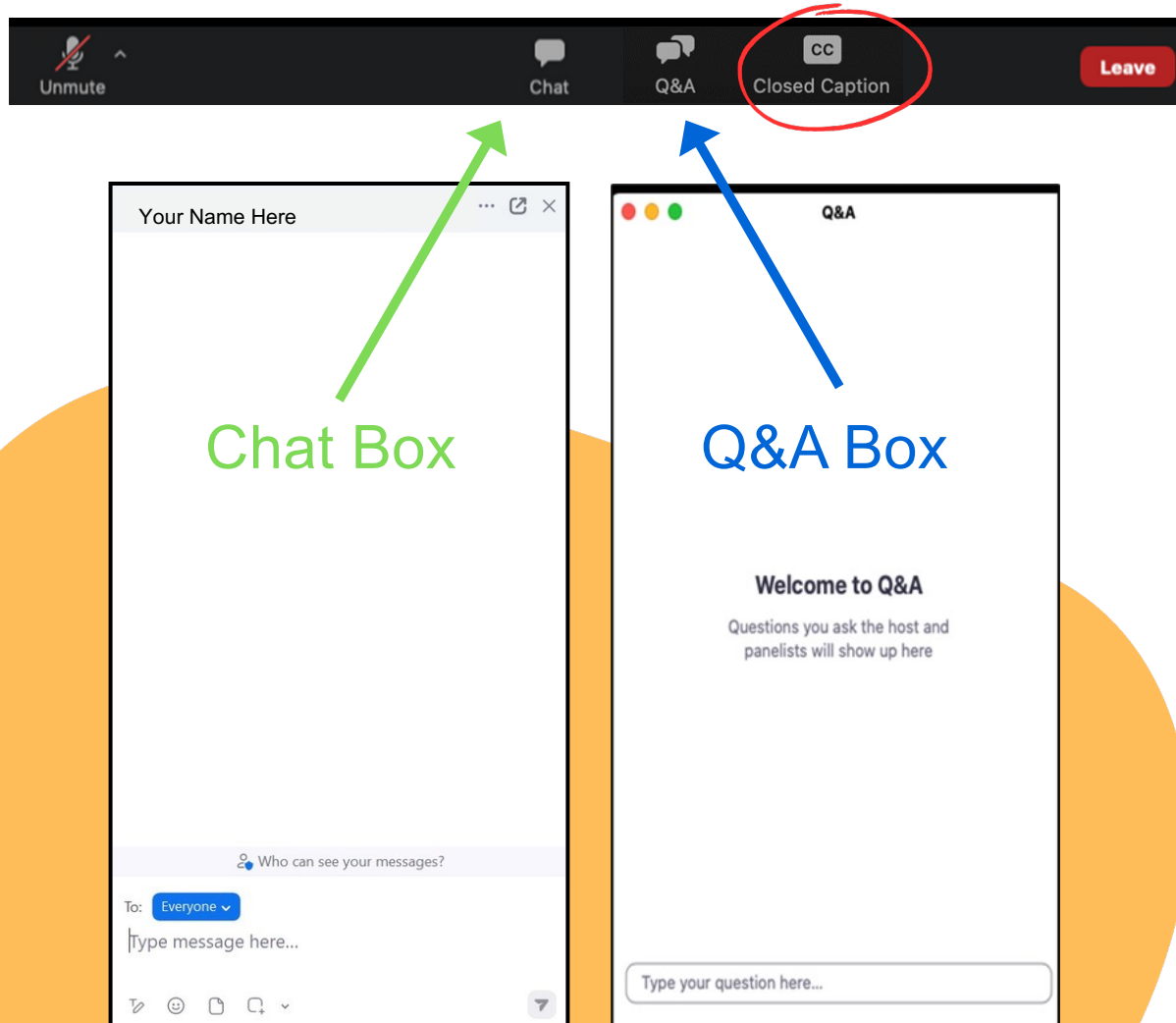
**CALIFORNIA  
ASSOCIATION OF  
FOOD BANKS**

---

**CalNonprofits**  
CALIFORNIA ASSOCIATION OF NONPROFITS

The voice for California's  
nonprofit community.

# Housekeeping & Zoom Tools



Use the **Chat Box** to chat with other participants. Choose “Everyone” to send the message to the whole audience or select a particular participant from the dropdown to directly message an individual.

Use the **Q&A Box** to send questions to our speakers. Pro tip: “Upvote” a question in the Q&A box by clicking the thumbs-up button -- that tells us it’s a popular question! Questions may be answered live or through text in the Q&A feature.

To view captions, click “**Closed Caption**” at the bottom of your Zoom screen.

Technical difficulties or questions? Send a chat message to “Event Tech” in the chat box!

The webinar recording and resources will be emailed to registrants in a few days!

# Upcoming Events

---

- **Wednesday, October 22nd, at 11:00am**  
**Virtual Townhall with Sen. Adam Schiff and California's Nonprofits**
- **Thursday, October 30th, at 11:00am**  
**Peer Learning Program:  
Technology and Innovation**





**Geoff Green**  
Chief Executive Officer  
CalNonprofits



# About Us



As the leading policy voice for California's nonprofit sector, **CalNonprofits** **focuses on advocacy, education, and research** to build a more powerful and politically engaged nonprofit network across the state



**Policy & Advocacy**



**Education**

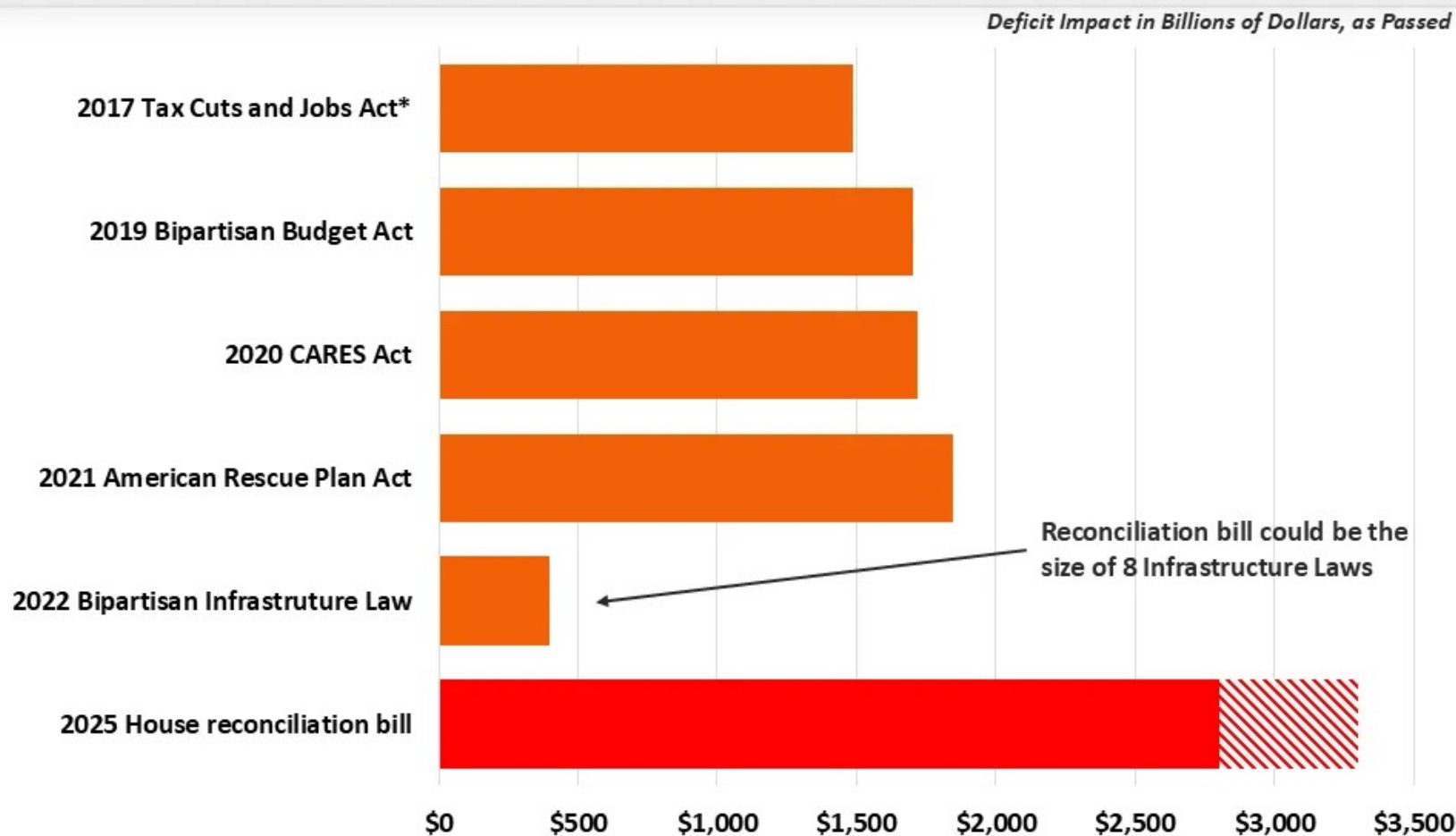


**Data & Research**



# H.R. 1

## House Bill Would Have Larger Deficit Impact Than Any Recent Law



Source: Congressional Budget Office, CRFB estimates, House Budget Committee

\*Includes dynamic revenues

Note: House Reconciliation bill shown as \$2.8 trillion, with possibility of totaling \$3.3 trillion without additional spending cuts

CRFB.org



# Extending the 2017 Tax Cuts & Jobs Act

- ✓ 2017 tax law dramatically reduced charitable giving
- ✓ ~ 23 million fewer itemizers = estimated \$20 billion decline



## How the 2017 Tax Law Made Itemized Charitable Giving a Luxury Good

Howard Husock and Edmund J. McMahon

July 2024

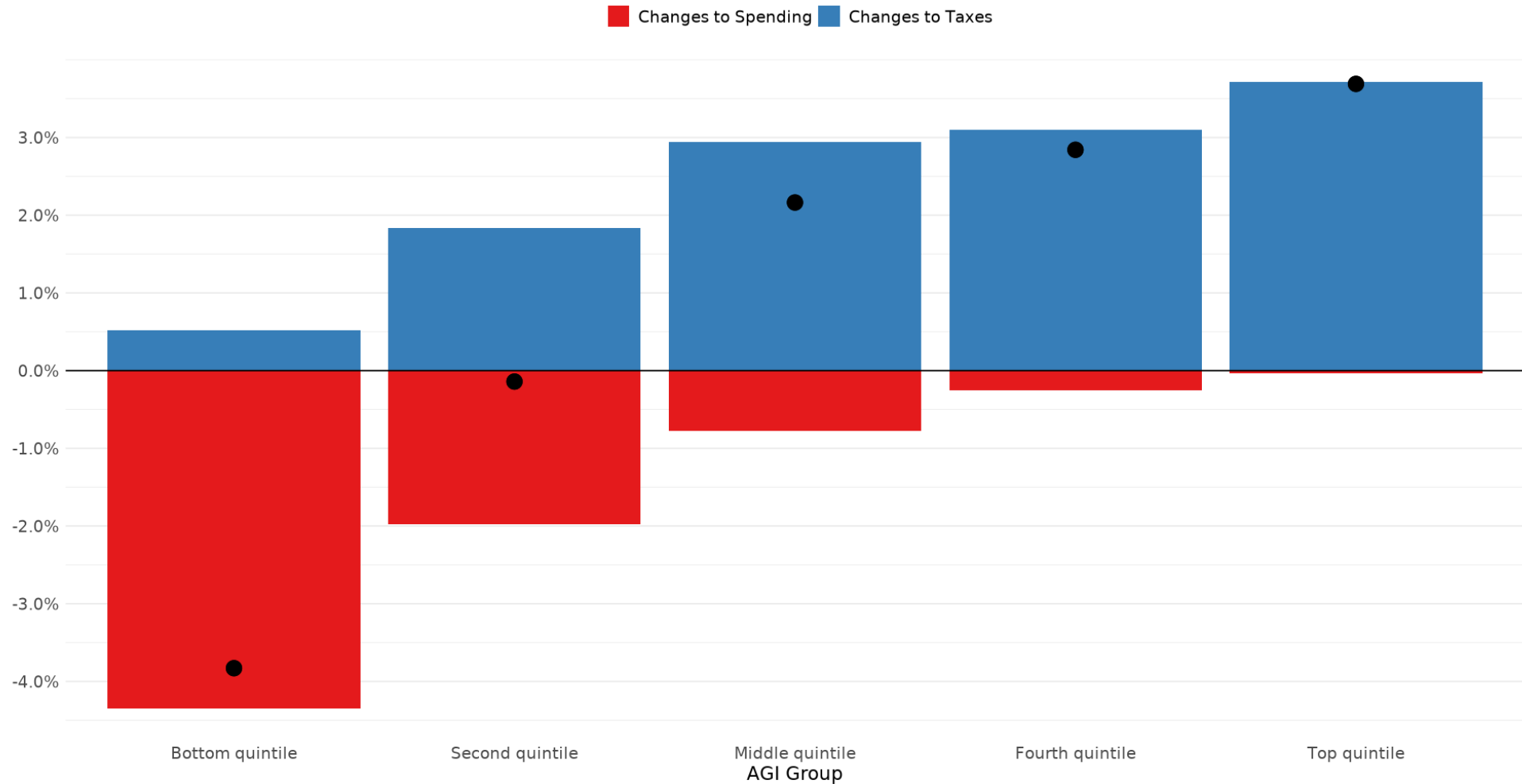
### Key Points

- This report examines the effect of itemized charitable giving, as tracked by the IRS, following the enactment of the Tax Cuts and Jobs Act of 2017.
- It finds that such giving, measured as a percentage of adjusted gross income, decreased overall because far fewer households itemized their tax returns.
- As a result, only the most affluent taxpayers, who continued to itemize their tax returns, retained a tax incentive for charitable giving.

# H.R. 1

**Figure 1. Effects of Selected Policies Consistent with House Budget Resolution Assuming No State Response, 2027**

Percent Change in After-Tax-And-Transfer Income

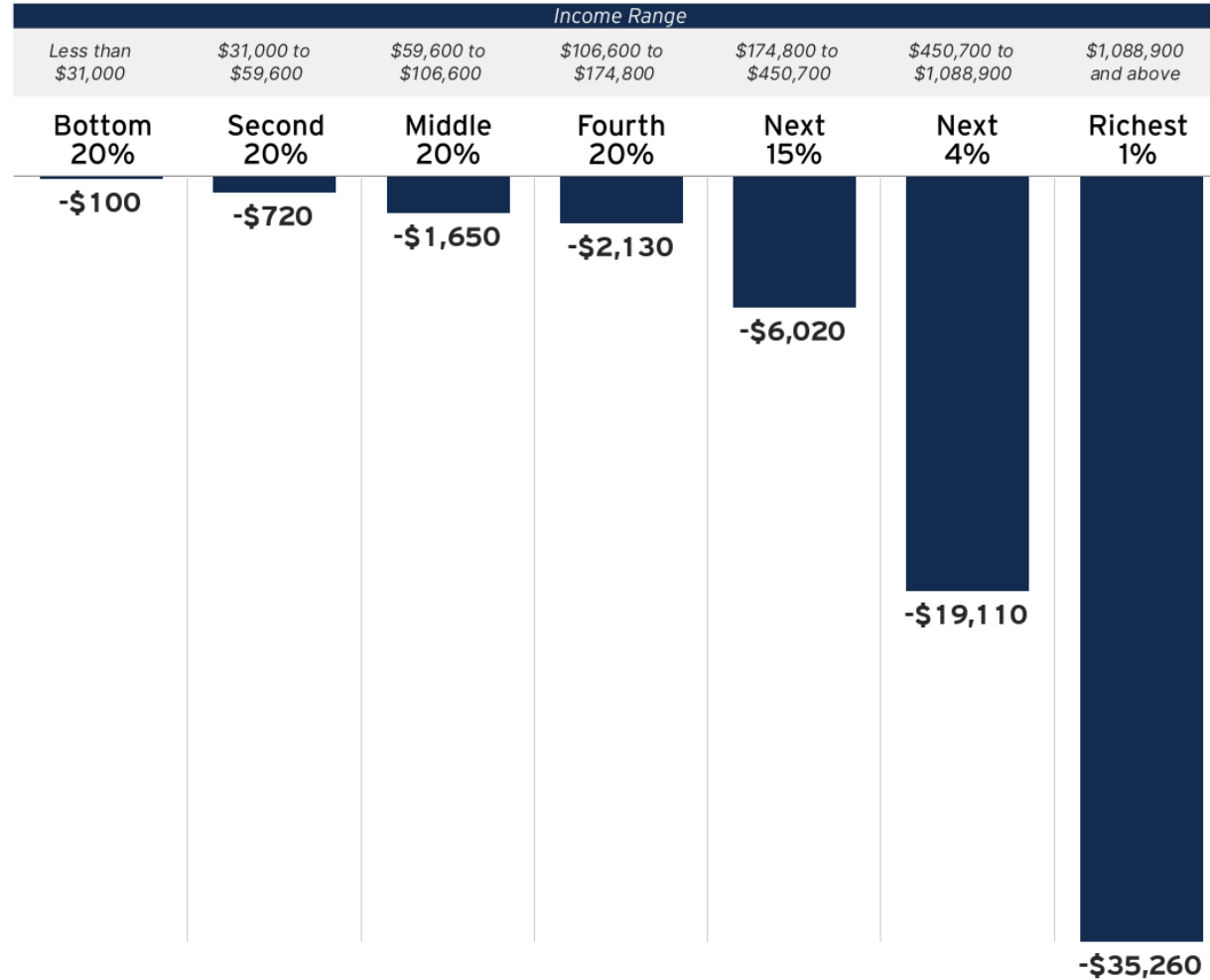


Source: The Budget Lab calculations

# H.R. 1

## Impact of Trump Megabill in California

Average tax change by income group in 2026



Source: Institute on Taxation and Economic Policy Tax Microsimulation Model, July 2025

# H.R. 1 - Impacts

The 2025 Budget Reconciliation Bill (AKA H.R 1) has several key tax provisions that specifically impact nonprofits:

1. Universal Charitable Deduction (\$1,000 individual / \$2,000 joint – **NEW**)
2. Floor for Itemizers (0.5% - **NEW**)
3. Floor for Charitable Gifts by Businesses (1% - **NEW**)
4. Increased Standard Deduction (+\$750 individual / +\$1,500 joint)
5. Limits on Itemized Deductions (35% cap – down from 37%)
6. Estate and Gift Taxes (\$15M individual / \$30M married exclusion now permanent)
7. College and University Endowment Tax (increase on largest endowments)
8. Highly Compensated Nonprofit Employee Tax (21% excise tax on \$1M+ comp)



# H.R. 1 - Resources



**“ H.R. 1 will ultimately harm the millions of people in America who rely on their local nonprofit organizations for essential services...While there are some bright spots, including a universal tax deduction for charitable giving, the tax bill falls far short of meeting the growing needs of the nonprofit sector to fill gaps unmet by government and the private sector.**

<https://www.councilofnonprofits.org/federal-tax-law-one-big-beautiful-bill-act>



# H.R. 1 - Resources



## Tracking the Policy Landscape for the Charitable Sector

Independent Sector and partners are providing three trackers to monitor policy actions that could impact the charitable sector. These include:

<https://independentsector.org/wp-content/uploads/2025/04/Independent-Sector-Federal-Tax-Legislation-Tracker.pdf>

# Is California a “Donor State?”

## California Pays \$83 Billion More in Federal Taxes Than It Receives in Federal Support

Federal Fiscal Year 2022, Dollars in Billions



Gap = \$83.1B

Note: Federal taxes primarily reflect individual income, corporate income, employment, and excise taxes. Federal spending reflects direct payments to individuals, grants, contracts, wages, and COVID-19 relief.

Source: Rockefeller Institute of Government



California Budget  
& Policy Center

# Today's Panelists



**Janice Rocco**  
Chief of Staff  
California Medical Association



**CALIFORNIA  
MEDICAL  
ASSOCIATION**



**Stacia Levenfeld**  
Chief Executive Officer  
California Association of Food Banks



**CALIFORNIA  
ASSOCIATION OF  
FOOD BANKS**



**CALIFORNIA  
MEDICAL  
ASSOCIATION**

# **HR 1 – Historic Cuts to Medicaid and Access to Care**

Janice Rocco  
CMA Chief of Staff

CalNonprofits webinar  
October 21, 2025



# HR 1 - \$1 Trillion in Health Care Cuts



- + HR 1 - How did we get here?
- + Health Care Cuts/Coverage Losses
- + Medicaid Eligibility Requirements
- + Education – loan caps
- + Expiration of ACA EPTCs
- + Defunding certain 501(c)(3)s
- + Work Ahead

# Affordable Care Act (ACA) – March 2010



- + Provisions of ACA widely discussed in the lead up to its passage:
  - Individual Mandate
  - No exclusion for pre-existing conditions or rescissions
  - Stay on parents' insurance until age 26
  - Health Exchange for individual market coverage – affordability
  - Preventive Care without cost sharing
  - 10 categories of Essential Health Benefits
  - Prohibition on charging more based on health status or gender
  - No annual or lifetime limits
  - Medicaid Expansion



# 2017 – “Health Care Freedom Act”



- + The “skinny” version of the bill was defeated after Senators McCain, Collins and Murkowski joined Dems to vote the bill down 49-51.
- + Among its provisions:
  - Individual Mandate Repeal
  - Employer Mandate Repeal
  - Expanded HSAs
  - Increased state’s ability to waive ACA requirements, such as coverage for Essential Health Benefits or sell junk insurance.
  - Defunded Planned Parenthood for a year

Estimates at the time were 15 million more uninsured and 20% premium increases in individual market

# HR 1: “OBBBA Act” – signed into law 7/4/25



- + Extends the expiring Trump Tax Cuts focused on the wealthy and provides \$165B to Dept of Homeland Security (DHS) related to immigration enforcement.
- + Imposes over \$1 trillion in catastrophic cuts on Medicaid & ACA coverage to fund the tax cuts and DHS.
- + **The California Medical Association strongly opposed HR 1**
- + Irreparable harm to patient health and the viability of the entire health care system. Rural areas may be hardest hit.

# HR 1 – Some Proposals that did not survive



- + Across the Board Cut to the % of the Federal Match of State Dollars
- + Eligibility for ACA Expansion Population was not eliminated
- + No Block Grants or Per Capita Caps
- + Medicaid continues to be an Entitlement Program
- + The Permanent Defunding of Planned Parenthood
- + Several provisions are delayed until after 2026 election or beyond

# 2025 - Before the passage of HR 1



- + Some hospitals and health clinics were closing or narrowing services, particularly for obstetrics
- + Emergency rooms were overcrowded
- + Patients often waited months to see a doctor
- + CA had redirected billions in health care funding to other purposes
- + Medicaid- incredibly popular program throughout state and nation
- + Prop 35 passed with 68% of vote to secure dedicated, ongoing funding to protect Medi-Cal and expand access to health care.

# HR 1 – Health Care Cuts/Coverage Losses



## 10 YEAR COVERAGE AND FISCAL IMPACT (CBO) ESTIMATES

- + Cuts Medicaid funding by \$990 billion (up to \$187 billion in CA)
- + Initial estimate - 15 million Medicaid & ACA enrollees will lose health care coverage
- + 4.8 million estimated to lose coverage due to work requirement red tape  
(CA up to 3 million)
- + Many CA Documented Immigrants lose Medicaid and ACA coverage in 2026
- + \$408 billion in Provider Tax Cuts - \$66-\$128 billion in CA (average 20% cut)
- + Uncompensated Care Costs Increase by \$42 billion (\$9.5 billion in CA)
- + 217,000 CA health care jobs lost; \$37 billion in reduced economic output
- + Estimates are 20% premium increases in the individual market (ACA coverage)

# Work Requirements & Eligibility Verification



**Section 71119:** Requires states to condition Medicaid eligibility on compliance with work requirements (called “community engagement requirements”) for adults ages 19 through 64. The provision applies to individuals enrolled through Medicaid expansion or a section 1115 demonstration providing minimum essential coverage.

Exemptions must be verified every 6 months

*Parents, guardians, caretaker relatives, or family caregivers of a dependent child age 13 and under or a disabled individual; medically frail individuals; pregnant/receiving Medicaid postpartum coverage; foster/former foster youth under age 26; American Indian and Alaska Native individuals; veterans with a disability rated as total; incarcerated or recently released within 90 days, Medicare Part A/Part B; meet Temporary Assistance for Needy Family or Supplemental Nutrition Assistance Program work requirements; drug addition/alcohol treatment program*

**Effective Date:** January 1, 2027

Impact: An estimated up to 3 million Medi-Cal members may lose coverage, which will significantly drive up the uninsured rate and raise costs for hospitals and clinics treating uninsured patients.



# HR 1: Student Loan Cuts -Workforce impact



- +For loans after July 1, 2026, limits govt student loan borrowing to: \$50,000 undergraduate and \$200,000 for medical school
- +Eliminates the Grad Plus loan for graduate students to new borrowers starting in 2026 and existing borrowers in 2029.
- +Replaces Income Driven Repayment Plan (IDR) with new Repayment Assistance program tied to size of loan ranging from 10-25 yrs.
- +Significant Pell Grant Program changes.

Creates barriers for students to pursue careers in medicine.  
Exacerbates physician workforce shortages.



# Expiration of ACA Enhanced Premium Tax Credits

Enhanced Premium Tax Credits (EPTCs) have resulted in increased enrollment in Covered California health plans and greater affordability

- + EPTCs expire December 31<sup>st</sup>, which is part of the government shutdown debate
- + Notice of premium increases hitting mailboxes this week. Premiums will on average almost double (97% increase). Average increase of \$125/month (\$1500 annually)
- + Health care costs and federal policies are increasing premiums.
- + As many as 400,000 Californians expected to drop coverage that will be unaffordable, with young adults most likely to drop coverage.

Immediate action by Congress is critical. Open enrollment is around the corner.

The longer it takes to reinstate the tax credits, the more people who will have already dropped coverage for 2026.

# Bars Medicaid funding to certain 501(c)(3)s



HR 1 makes some non-profits ineligible to be Medicaid Providers.  
“Prohibited entity” in HR 1 means:

- + An entity that is a 501(c)(3); and
- + An essential community provider that is primarily engaged in family planning services, reproductive health, and related medical care; and
- + Received over \$800,000 in Medicaid reimbursement in FY 2023; and
- + The entity or its affiliates provide abortion services as of 10/1/2025.

Planned Parenthood Affiliates of America and many states are challenging this defund provision from HR 1 in court.

# HR 1 - Defunding Planned Parenthood



## In California,

- Planned Parenthood health centers provide nearly 1.3 million patient visits annually
- 80% of Planned Parenthood patients rely on Medicaid
- Federally Qualified Health Centers cannot readily replace Planned Parenthood

**1 in 4 Californians have received care through Planned Parenthood**

## PLANNED PARENTHOOD DEFUND

Prohibits payments using federal funding for any item or services provided by a “prohibited entity” in Medicaid.

A “prohibited entity” is a 501(c)(3) nonprofit that is an essential community provider primarily engaged in family planning and reproductive health care, provides abortions, and received over \$800,000 in Medicaid reimbursements in FY 2023.

**The defund provision will mean California will lose over \$300M in federal Medicaid funding for family planning services**



# WHAT MEDICAID CUTS ACTUALLY COST



## Patients Lose Health Coverage

They become uninsured, delay care and get sick.



## Emergency Departments Get More Crowded

Hospital emergency departments and physicians are required by federal law to provide care to uninsured patients.



## Patients Are Forced Into Debt

When patients can't cover their medical bills, hospitals and physicians are forced to pick up the cost.



## Commercial Insurance Rates Soar

To cover the cost of providing emergency care to uninsured patients, providers are forced to raise rates on private insurance.



## Hospitals and Physician Offices Close

Hospitals can't take on the increased financial burden and are forced to close along with surrounding physician practices and nursing homes, and the community's health care workforce is let go.



## The Local Economy Falters and People Lose Jobs

Health care providers are often the largest employers in a community. Without this workforce and customer base, local businesses suffer.



## States Cannot Absorb Cuts

States will reduce Medicaid coverage and benefits, cut funding from other programs and/or raise taxes.

# Work ahead....

- + Maintain provider taxes that bring federal matching dollars to 49 states (incl CA)
- + Continue Prop 35 implementation funding for Medi-Cal and workforce
- + Extend expiring ACA premium tax credits.
- + Work with HCAI and stakeholders on Rural Health Transformation Program
- + Help patients maintain eligibility under new eligibility verification rules and work requirements







# Questions?



CALIFORNIA  
ASSOCIATION OF  
FOOD BANKS

# Impacts to CalFresh in H.R. 1

October 22, 2025





## **CONGRESS JUST PASSED THE LARGEST CUTS TO SNAP IN US HISTORY**

*Changes to SNAP will impact hunger,  
employment, and local economies across  
the country for years to come*

Signed by the President  
**July 4<sup>th</sup>, 2025**



**CALIFORNIA  
ASSOCIATION OF  
FOOD BANKS**

# H.R. 1 Impacts SNAP (CalFresh)

H.R. 1 includes changes to CalFresh eligibility and reductions in benefits

**Over 800,000 individuals** in CA are estimated to be impacted

- Approximately half are at risk of losing their benefits entirely
- The other half will see a reduction to their benefit amounts



# Changing Eligibility: Non-Citizens

H.R. 1 removes eligibility  
for many lawfully present  
immigrant groups.

~74,000

noncitizens will lose CalFresh eligibility

## Limiting eligibility to:

- Lawfully Permanent Residents
- Cuban or Haitian Entrants
- Individuals who reside in the US in accordance with the Compact of Free Association agreement



# Changes to the Time Limit Work Rules "ABAWD"

~303,000

individuals will be newly  
subject to the time limit.\*



## Those impacted include:

- Older adults up to age 64
- Households with a youngest child 14 or older
- Veterans
- Unhoused Individuals
- People age 24 or younger and in foster care on their 18th birthday

*\*People eligible for Indian Health Services will be excluded from time limits*



# CalFresh Funding Changes

California will have to pay *more* money to help run the CalFresh program, even for some of the food benefits themselves.

Administrative Funding  
(October 2026)



75% State Funded

CalFresh Benefits  
(October 2027)



0-15% State Funded,  
up to 2.1 billion cost to CA

# Additional Changes due to H.R. 1

- Eliminates federal funding for SNAP-Ed (CalFresh Healthy Living)
- Future reevaluations of the Thrifty Food Plan have to be "cost neutral"
- Utility costs will be calculated differently for some households

Learn More: [CDSS H.R. 1 & CalFresh FAQs](#)



# H.R. 1 Implications & Impact



~ 395,000+ CalFresh individuals may lose benefits



~ 444,000 may see a reduction in benefits



~ 1.7B - 3.7B loss in annual federal funds to CA



Food Banks already serving ~6M households/mo.



Mitigating harm requires ALL to take action

# State Budget Investments

\$123.6 million in initial CalFresh investments against immediate harms from H.R. 1, including to support:

- Improving CA's payment accuracy rate while protecting benefits and program access
- CalFresh time-limit implementation

\$80 million in CalFood funding for Food Banks to purchase CA grown & manufactured foods



# Let's Discuss

---



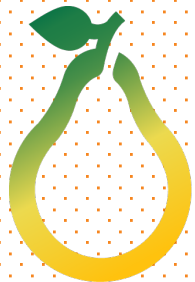
# Thank You to Our Panelists!

---



**CALIFORNIA  
MEDICAL  
ASSOCIATION**

**Janice Rocco**  
Chief of Staff  
California Medical Association



**CALIFORNIA  
ASSOCIATION OF  
FOOD BANKS**

**Stacia Levenfeld**  
Chief Executive Officer  
California Association of Food Banks





# Thank You for Attending!

---

## *The Big, Ugly Bill: What H.R. 1 Means for Nonprofits*

All registrants will receive a recording of today's webinar and the accompanying PowerPoint slides.

If you have further questions, please reach out to:

[events@calnonprofits.org](mailto:events@calnonprofits.org)

[www.calnonprofits.org](http://www.calnonprofits.org)



# Contact Us

---



Geoff Green, CEO  
[geoffg@calnonprofits.org](mailto:geoffg@calnonprofits.org)

CalNonprofits  
[www.calnonprofits.org](http://www.calnonprofits.org)  
[membership@calnonprofits.org](mailto:membership@calnonprofits.org)  
[events@calnonprofits.org](mailto:events@calnonprofits.org)

## Myth v. Reality

# Executive Branch Lacks Authority to Target Nonprofit Organizations

Updated April 21, 2025

---

*The Trump Administration has continued its broad attack on civil society by targeting nonprofit organizations on ideological grounds. Most recently, President Trump threatened to [strip Harvard University](#) of its tax-exempt status. The Administration attempted to assign a team of Department of Government Efficiency (DOGE) staff members to the [Vera Institute of Justice](#) and directly targeted [Citizens for Responsibility and Ethics in Washington](#) (CREW), both of which are independent nonprofit organizations. Other executive actions targeting nonprofit organizations are expected to be released soon. The National Council of Nonprofits will explore every avenue to defend and protect the nonprofit sector.*

## Myth

*The executive branch can limit what types of groups are eligible to be designated as 501(c)(3) organizations.*

## Reality

**The executive branch does not have the authority to unilaterally limit what types of organizations are eligible for 501(c)(3) status.**

Eligibility for charitable nonprofit status is laid out in federal law under the Internal Revenue Code section 501(c)(3). Any changes to the types of organizations that are eligible for 501(c)(3) status must be enacted by Congress. The Internal Revenue Code defines 501(c)(3) organizations as “corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.” The statute does not limit the types of these organizations that may be eligible.

## Myth

*The President can direct the IRS to strip a specific nonprofit organization or foundation of its 501(c)(3) status.*

## Reality

**The President does not have the authority to direct the IRS to strip a specific nonprofit organization or foundation of its 501(c)(3) status.**

Federal law under 26 U.S. Code section 7217 makes it illegal for the President, Vice President, or any employee of the executive office of the President or Vice President, to “request, directly or indirectly, any officer or employee of the Internal Revenue service” to conduct an audit or other

investigation of any particular taxpayer. In fact, the statute states that any person who willfully does so shall be convicted with a fine not exceeding \$5,000 or imprisonment of not more than 5 years.

## Myth

*The IRS can immediately strip a specific nonprofit organization or foundation of their 501(c)(3) status.*

## Reality

**The IRS does not have the authority to strip a nonprofit organization or foundation of its 501(c)(3) status without following the required processes.**

According to [IRS Publication 892](#), the IRS can make a determination that an organization does not meet the criteria for tax-exempt status if the organization is no longer complying with the law. The organization has a right to appeal the decision with the agency after they receive a proposed adverse determination, and then, if no agreement is reached, the organization can file an appeal with a court.

## Myth

*The IRS can strip 501(c)(3) status from a nonprofit organization or foundation solely because it works to advance diversity, equity, and inclusion (DEI).*

## Reality

**The IRS does not have the authority to strip a nonprofit organization or foundation of its 501(c)(3) status for engaging in lawful activities, including those that promote diversity, equity and inclusion.**

A 501(c)(3) organization may not, however, engage in behavior that is illegal or violates public policy, and doing so can put their 501(c)(3) tax status at risk. (See generally, [IRS Revenue Ruling 71-447](#) and the case law following the U.S. Supreme Court decision in [Bob Jones University v. U.S.](#)). *Bob Jones* has served as a basis for revocation of 501(c)(3) status when an organization violates the “fundamental public policy” against racial discrimination in education. The Administration has not yet defined what is considered to be unlawful diversity, equity, and inclusion (DEI) activities, and there are multiple lawsuits challenging the administration’s declarations that DEI activities are illegal. Currently, it has not been determined what nonprofit organizations are prohibited from doing based on the Executive Orders or what is defined as unlawful that would place a nonprofit at risk for losing their 501(c)(3) status.

## Myth

*The IRS can strip 501(c)(3) status from a nonprofit organization solely because it engages in nonpartisan advocacy or lobbying.*

## Reality

**The IRS does not have the authority to strip a nonprofit organization of its 501(c)(3) status for engaging in nonpartisan advocacy or lobbying.**

Nonprofits can and should engage in public policy advocacy related to their missions. The Internal Revenue Code, however, prohibits nonprofit organizations from directly or indirectly participating

in, or intervening in, any political campaign on behalf of, or in opposition to, any candidate for elective public office. Equating issue advocacy with partisan electioneering is misleading. See [Protecting the Johnson Amendment and Nonprofit Nonpartisanship](#) for more information.

## Myth

*The Administration should deploy DOGE teams to nonprofit organizations that receive federal funding to “cut waste, fraud and abuse.”*

## Reality

**The executive branch already has legal tools to provide oversight and ensure that nonprofit organizations receiving federal funds are held accountable.**

Nonprofit organizations that receive money from the federal government and spend more than one million dollars in a fiscal year are required to have a “Single Audit” – an independent compliance audit that covers the entire organization’s financial operations.

*The content provided in this document is provided in good faith for informational purposes only and is neither intended to be nor should be construed as legal or tax advice. Please consult an attorney for the latest and most accurate information. The National Council of Nonprofits makes no representations or warranties as to the accuracy or timeliness of the information contained herein.*

# Executive Orders Affecting Charitable Nonprofits



Updated February 3, 2026

New updates are highlighted in beige.

After his January 20th inauguration, President Trump signed dozens of Executive Orders (EOs) covering a broad range of issues, including diversity, equity, and inclusion programs; government grants and contracts; civic engagement; immigration; and certain nonprofit subsectors. **Some of the EOs won't take effect immediately, and many are expected to be immediately challenged in court.** This chart outlines some of the EOs that may affect nonprofits directly or indirectly.

This document will be updated frequently, so please use this link to see the most up-to-date version:

<https://www.councilofnonprofits.org/files/media/documents/2025/chart-executive-orders.pdf>

Help us track the impacts of the recent Executive Orders on the nonprofit sector by sharing your stories of observed impacts on your work and the people you serve: <https://www.councilofnonprofits.org/form/effects-executive-actions-nonprofits>

## Background Resources

- National Webinar: Executive Actions and their Impact on Charitable Nonprofits (57:38) [recording](#) and [slides](#), National Council of Nonprofits, Feb. 7, 2025
- [The Impacts of the Recent Executive Orders on Nonprofits](#), National Council of Nonprofits.
- [Presidential Actions](#), White House.
- [What Is an Executive Order?](#), American Bar Association, Jan. 25, 2021.

## Table of Contents

- [Diversity, Equity, and Inclusion](#)
- [Federal Government](#)
- [Immigration](#)
- [LGBTQ+](#)
- [Environment](#)
- [Census](#)
- [Civic Engagement](#)
- [House of Worship/Faith-Based Groups](#)
- [Other](#)

*The content provided in this chart is provided in good faith for informational purposes only and is neither intended to be nor should be construed as legal or tax advice. Please consult an attorney for the latest and most accurate information. The National Council of Nonprofits makes no representations or warranties as to the accuracy or timeliness of the information contained herein.*



# Diversity, Equity, and Inclusion (DEI)

## Nonprofit Impact

Federal government DEI programs and trainings, often provided by or in partnership with nonprofits, will be eliminated. In addition, President Trump has signed EOs extending "anti-DEI" efforts to the private sector.

| Executive Order                                                                     | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Related Documents                                                                               |
|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <a href="#">Ending Illegal Discrimination and Restoring Merit-Based Opportunity</a> | <p>Requires every federal grant or contract to certify it is compliant with “anti-discrimination” laws and does not operate any programs promoting DEI that violate “anti-discrimination” laws.</p> <p>Directs the Office of Management and Budget (OMB) to review all processes, directives, and guidance, and remove all references to DEIA “under whatever name they appear” and terminate all mandates, requirements, programs, and activities.</p> <p>Requires a report by the Attorney General and each agency to identify up to 9 potential investigations of corporations, large nonprofits or associations, or foundations with assets of \$500 million or more or state and local bar and medical associations and higher education institutions with endowments of \$1 billion or more.</p> <p>Requires guidance for all education agencies and higher education institutions that receive federal funds or federal student loan assistance.</p> <p>Rescinds <a href="#">EO 11246</a> which required government contracts to include antidiscrimination provisions and affirmative action requirements.</p> | <p><b>Partially Challenged by:</b> <a href="#">NADOHE v. Trump</a>, <a href="#">MLKJ County v. Turner</a></p> <p><b>Status:</b> In effect, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to block EOs prohibiting federal grant and contract recipients from engaging in DEI initiatives.</p> <ul style="list-style-type: none"><li>• <a href="#">4th Circuit Overruling NADHOE PI</a></li><li>• <a href="#">NADOHE Preliminary Injunction</a></li><li>• <a href="#">MLKJ County Preliminary Injunction</a></li><li>• <a href="#">MLKJ District Court Grants 4th Preliminary Injunction</a> [1/21/26]</li></ul> | <ul style="list-style-type: none"><li>• <a href="#">President’s Management Agenda</a></li></ul> |

# Diversity, Equity, and Inclusion (DEI)

| Executive Order                                                                      | Implications                                                                                                                                                                                                                                        | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Related Documents                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Ending Radical and Wasteful Government DEI Programs and Preferencing</a> | Directs the Office of Management and Budget (OMB) and the Office of Personnel Management (OPM) to coordinate with all federal agencies to terminate all DEI programs in federal agencies, including equity related grants, and equity action plans. | <p><b>Challenged by:</b> <a href="#">NCN v. OMB</a>, <a href="#">NY v. Trump</a> (23 state attorneys general)</p> <p><b>Status:</b> OMB Memo rescinded, blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to block the OMB Memo freezing federal funds.</p> <ul style="list-style-type: none"> <li>• <a href="#">NCN Administrative Stay</a></li> <li>• <a href="#">NCN Temporary Restraining Order</a></li> <li>• <a href="#">NCN Preliminary Order</a></li> <li>• <a href="#">NCN Opinion</a></li> <li>• <a href="#">NY Temporary Restraining Order</a></li> <li>• <a href="#">NY Preliminary Injunction</a></li> </ul>                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• <a href="#">OMB Funding Freeze Memo</a></li> <li>• <a href="#">OMB Funding Freeze Rescission</a></li> <li>• <a href="#">NCN Statement</a></li> <li>• <a href="#">DOJ Civil Rights Fraud Initiative</a></li> <li>• <a href="#">DOJ Discrimination Guidance</a></li> <li>• <a href="#">President's Management Agenda</a></li> </ul> |
|                                                                                      |                                                                                                                                                                                                                                                     | <p><b>Partially Challenged by:</b> <a href="#">NADOHE v. Trump</a>, <a href="#">RI Coalition Against Domestic Violence v. Kennedy, Jr.</a>, <a href="#">National Digital Inclusion Alliance v. Trump</a></p> <p><b>Status:</b> In effect, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to block EOs prohibiting federal grant and contract recipients from engaging in DEI initiatives, including by certification requirements.</p> <ul style="list-style-type: none"> <li>• <a href="#">NADOHE Preliminary Injunction</a></li> <li>• <a href="#">Appellate Court overruling NADOHE PI</a></li> <li>• <a href="#">RI Fifth Revised TRO</a></li> <li>• <a href="#">RI Preliminary Injunction Granted</a></li> <li>• <a href="#">RI Preliminary Injunction amended</a></li> <li>• <a href="#">Gov't Appeal of PI Dismissed</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">OPM DEIA Guidance</a></li> <li>• <a href="#">DOJ DEI/DEIA Memo</a></li> <li>• <a href="#">EEOC What to Do DEI Guidance</a></li> <li>• <a href="#">EEOC What to Know DEI Guidance</a></li> </ul>                                                                                                                       |
|                                                                                      |                                                                                                                                                                                                                                                     | <p><b>Challenged by:</b> <a href="#">Chicago Women in Trades v. Trump</a>, <a href="#">American Public Health Association et al. v. National Institutes of Health</a></p> <p><b>Status:</b> Blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging making diversity, equity, and inclusion illegal.</p> <ul style="list-style-type: none"> <li>• <a href="#">CWT Preliminary Injunction</a></li> <li>• <a href="#">APHA Striking Down NIH Grant Directives as Unlawful</a></li> <li>• <a href="#">APHA Case Dismissed, Subject to Conditions</a></li> </ul>                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                            |

## Diversity, Equity, and Inclusion (DEI)

| Executive Order                                                                                                  | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Status                    |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <a href="#"><u>Implementing the President's "Department of Government Efficiency" Workforce Optimization</u></a> | Assigned agency leads must prepare for "large-scale reductions in force," prioritizing any initiatives, operations, or components that include diversity, equity, and inclusion or other functions "not mandated by statute or other law."                                                                                                                                                                                                                                                                                                                                                                                      | <b>Status:</b> In effect. |
| <a href="#"><u>Initial Rescissions of Harmful Executive Orders and Actions</u></a>                               | Rescinds previous Biden Executive Orders to expand DEI in federal government programs, the federal workforce, and underserved communities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Status:</b> In effect. |
| <a href="#"><u>Reforming Accreditation to Strengthen Higher Education</u></a>                                    | <p>Directs the Secretary of Education to hold accountable accreditors who fail to meet applicable recognition criteria or violated Federal law by requiring institutions to engage in "unlawful discrimination...under the guise of 'diversity, equity, and inclusion' initiatives."</p> <p>Directs the Attorney General and Secretary of Education to investigate and terminate unlawful discrimination by law schools, medical schools, or graduate medical education entities, including unlawful DEI requirements, and to require accreditors to rely on student outcomes without reference to race, ethnicity, or sex.</p> | <b>Status:</b> In effect. |

## Diversity, Equity, and Inclusion (DEI)

| Executive Order                                                            | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Status                    | Related Documents                                                                                                                                   |
|----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#"><u>Reinstating Common Sense School Discipline Policies</u></a> | Directs a report on discriminatory-equity-ideology-based school discipline and behavior modification techniques, including an assessment of the role of nonprofit organizations that are Federal grant recipients in promoting discriminatory-equity-ideology-based discipline and behavior modification techniques and recommendations to prevent federal funding from going to those programs.                                                                                                                                                                                                                                                                                                                                                                                                | <b>Status:</b> In effect. |                                                                                                                                                     |
| <a href="#"><u>Restoring Equality of Opportunity and Meritocracy</u></a>   | <p>Eliminates the use of disparate impact theory, as a matter of federal policy, to the maximum degree possible. Disparate Impact is a legal tool used to challenge seemingly neutral policies or practices that disproportionately impact protected classes, even when there is no discriminatory intent.</p> <p>Revokes presidential approvals of Department of Justice Title IV of the Civil Rights Act regulations.</p> <p>Directs agencies to deprioritize the enforcement of disparate-impact rules and regulations and to assess current proceedings based on disparate impact and to bring those proceedings into compliance with the EO.</p> <p>Directs the Attorney General to initiate the repeal or amendment of implementing regulations for Title VI of the Civil Rights Act.</p> | <b>Status:</b> In effect. | <ul style="list-style-type: none"> <li>• <a href="#"><u>DOJ Rule</u></a></li> <li>• <a href="#"><u>President's Management Agenda</u></a></li> </ul> |

# Federal Government

## Nonprofit Impact

Nonprofits partnering with federal government agencies or receiving federal funding, especially through government grants and contracts, may experience longer wait times and slower processing, loss of points of contacts or difficulty reaching them, and increased strain on relationships.

Nonprofits should advocate for and talk to government partners about government grants and contracting reform and provide specific examples of how processes and reporting requirements could be streamlined.

Nonprofits will no longer have direct White House connections through the Office of Faith-Based and Neighborhood Partnerships.

| Executive Order/Action                                                         | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Litigation                       | Related Documents                                                               |
|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------------------------------------------------------------------------------|
| <a href="#">Memorandum for the Heads of Executive Departments and Agencies</a> | <p>States that “[i]t is the policy of the Administration to stop funding NGOs that undermine the national interest.”</p> <p>Does not define “nongovernmental organizations (NGOs)”.</p> <p>Directs the heads of executive departments and agencies to “review all funding that agencies provide to NGOs.”</p> <p>Requires agencies to “align future funding decisions with the interests of the United States and with the goals and priorities of my Administration, as expressed in executive actions; as otherwise determined in the judgment of the heads of agencies; and on the basis of applicable authorizing statutes, regulations, and terms.”</p> | <p><b>Status:</b> In effect.</p> | <ul style="list-style-type: none"><li>• <a href="#">NCN Statement</a></li></ul> |

## Federal Government

| Executive Order                                                                             | Implications                                                                                  | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Related Documents                                                                                |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| <a href="#">Improving Education Outcomes by Empowering Parents, States, and Communities</a> | Requires the Secretary of Education to facilitate the closure of the Department of Education. | <p><b>Challenged by:</b> <a href="#">New York v. McMahon</a></p> <p><b>Status:</b> In effect, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenges the reduction in force of remaining employees and closure of the Department.</p> <ul style="list-style-type: none"><li>• <a href="#">NY Preliminary Injunction</a></li><li>• <a href="#">Supreme Court blocking PI</a></li><li>• <a href="#">1st Circuit dismisses appeal (permits District Court to void PI)</a></li><li>• <a href="#">NY Amended Complaint</a></li></ul> | <ul style="list-style-type: none"><li>• <a href="#">Fact Sheets on Moving Programs</a></li></ul> |



## Federal Government

| Executive Order                                                                                                   | Implications                                                                                                                                                                                                                       | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><a href="#"><u>Establishing and Implementing the President's "Department of Government Efficiency"</u></a></p> | <p>Establishes the Department of Government Efficiency (DOGE) to implement the DOGE Agenda, modernize federal technology and software and provide access to all unclassified agency records, software systems, and IT systems.</p> | <p><b>Challenged by:</b> <a href="#"><u>Public Citizen v. Trump</u></a>, <a href="#"><u>NY v. Trump</u></a>, <a href="#"><u>AFT v. Bessent</u></a>, <a href="#"><u>CREW v. DOGE</u></a>, <a href="#"><u>Japanese American Citizens League v. Musk</u></a> (consolidated with <a href="#"><u>New Mexico v. Musk</u></a>), <a href="#"><u>Maryland v. Ag</u></a>, <a href="#"><u>Maryland v. Corp. for Nat'l and Community Service</u></a> (25 state attorneys general), <a href="#"><u>Elev8 Baltimore v. Corp. for Nat'l and Community Service</u></a>, <a href="#"><u>Trump v. AFGE</u></a></p> <p><b>Status:</b> In effect, litigation ongoing. AmeriCorps members in service and funding restored. Union employees of AmeriCorps reinstated. Further firings or RIFs suspended without court approval. Grans and contracts reinstated and restored. Reinstate Elev8 plaintiffs. Nominal bond of \$100.</p> <p><b>Lawsuit Summary:</b> Multiple cases challenging the creation and status of DOGE as a government agency, its access to information, circumvention of FOIA, and Reduction in Force (RIF); challenging furloughed staff and funding cuts to AmeriCorps.</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>SCOTUS Stay</u></a> (Permitting Reduction in Force)</li> <li>• <a href="#"><u>Elev8 Preliminary Injunction</u></a></li> <li>• <a href="#"><u>NY Preliminary Injunction</u></a></li> <li>• <a href="#"><u>4th Circuit Overruling AFT Preliminary Injunction</u></a></li> <li>• <a href="#"><u>CREW Opinion</u></a></li> <li>• <a href="#"><u>4th Circuit Dismissal of Maryland v. Ag</u></a></li> <li>• <a href="#"><u>Maryland Preliminary Injunction (AmeriCorps)</u></a></li> <li>• <a href="#"><u>Maryland Briefing Temporarily Halted</u></a></li> <li>• <a href="#"><u>CREW Denial of Rehearing</u></a></li> </ul> |

# Federal Government

| Executive Order                                                                                                                           | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Status                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative</a> | <p>Directs the heads of federal agencies to coordinate with their DOGE Team Leads and the OMB Director to review all regulations within their jurisdiction for "consistency with law and Administration policy."</p> <p>Requires federal agencies identify regulation categories such as those that "implicate matters of social, political, or economic significance that are not authorized by clear statutory authority."</p> <p>Directs OIRA's Administrator to develop a Unified Regulator Agenda that will modify or rescind those regulations.</p> | <p><b>Challenged by:</b> <a href="#">New Jersey v. OMB</a> (22 AGs)</p> <p><b>Status:</b> In effect, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging the termination of federal grants and awards that "no longer effectuates...agency priorities".</p> |
| <a href="#">Ensuring Accountability for all Agencies</a>                                                                                  | <p>Requires all federal agencies to submit proposed and final regulations to the Executive Office for review before they are published in the Federal Register.</p> <p>Sets Rules of Conduct Guiding Federal Employees' Interpretation of Law and that "[t]he President and the Attorney General's opinions on questions of law are controlling on all employees in the conduct of their official duties."</p>                                                                                                                                            | <p><b>Status:</b> In effect.</p>                                                                                                                                                                                                                                       |
| <a href="#">Radical Transparency About Wasteful Spending</a>                                                                              | <p>Requires the heads of federal agencies to make as many details as possible of "every terminated program, cancelled contract, terminated grant, or any other discontinued obligation of Federal funds" public. Federal agencies must comply with "applicable laws, regulations, and the terms and conditions of the underlying contract, grant, or other award."</p>                                                                                                                                                                                    | <p><b>Status:</b> In effect.</p>                                                                                                                                                                                                                                       |

# Federal Government

| Executive Order                                                                                       | Implications                                                                                                                                                                                                                                                                                                                                                                                                    | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Related Documents                                                                                    |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| <a href="#">Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce</a> | <p>Changes human resources policies and allows for easier termination.</p> <p>Creates a new category to exempt federal employees in “policy-determining, policy-making, or policy-advocating” position from accessing tools to appeal termination. Positions federal agencies can consider include those with duties such as “substantive participation and discretionary authority in agency grantmaking.”</p> | <p><b>Challenged by:</b> <a href="#">AFGE, AFL-CIO v. OPM</a>, <a href="#">NTEU v. Trump</a> (unions), <a href="#">Stainnak v. Trump</a> (class action), <a href="#">Fell v. Trump</a> (class action)</p> <p><b>Status:</b> Partially blocked by ruling mass firings unlawful but does not require reinstatement, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to have probationary employees reinstated. OPM ordered to rescind memos directing agencies to fire probationary employees.</p> <ul style="list-style-type: none"> <li>• <a href="#">AFGE, AFL-CIO Preliminary Injunction</a></li> <li>• <a href="#">SCOTUS overruling AFGE, AFL-CIO PI</a></li> <li>• <a href="#">NTEU Order to Stay Until Final Rule</a></li> <li>• <a href="#">AFGE, AFL-CIO District Court rules mass firings unlawful</a></li> <li>• <a href="#">AFGE, AFL-CIO New Appeal on merits of case</a></li> <li>• <a href="#">AFGE, AFL-CIO 9th Circuit dismisses appeals of PI as moot</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">OPM Guidance on Revocation of EO</a></li> </ul> |
| <a href="#">Commencing the Reduction of the Federal Bureaucracy</a>                                   | <p>Eliminates the Presidio Trust, Inter-American Foundation, United States African Development Foundation, and the United States Institute of Peace.</p>                                                                                                                                                                                                                                                        | <p><b>Partially Challenged by:</b> <a href="#">United States Institute of Peace v. Jackson</a>, <a href="#">Pippenger v. U.S. DOGE Service</a></p> <p><b>Status:</b> Partially blocked.</p> <p><b>Lawsuit Summary:</b> Seeking to block the elimination of the United States Institute of Peace.</p> <ul style="list-style-type: none"> <li>• <a href="#">USIP Summary Judgement</a></li> <li>• <a href="#">Pippenger Order Denying Temporary Injunction</a></li> <li>• <a href="#">Pippenger Stay Pending USIP Case</a></li> <li>• <a href="#">USIP Order to Stay Pending Appeal</a></li> <li>• <a href="#">USIP Order Denying Rehearing, Stay Maintained</a></li> </ul>                                                                                                                                                                                                                                                                                                                        |                                                                                                      |

## Federal Government

| Executive Order                                                             | Implications                                                                                                                                                                                                                                                                                                                                                | Status                                                                                                                                                                                                                                                                                                                                                                                     | Related Documents                                                                                 |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <a href="#">Return to In-Person Work</a>                                    | Directs full-time, in person work for all federal employees.                                                                                                                                                                                                                                                                                                | <p><b>Challenged by:</b> <a href="#">AFGE v. Ezell</a><br/>(dismissed with prejudice for lack of subject matter jurisdiction and lack of standing).</p> <p><b>Status:</b> In effect. Case closed.</p> <p><b>Lawsuit Summary:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">AFGE Dismissed with prejudice</a></li> <li>• <a href="#">AFGE Appeal of dismissal</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">OPM Memo Deferred Resignation</a></li> </ul> |
| <a href="#">Regulatory Freeze Pending Review</a>                            | Freezes outstanding regulations pending review.                                                                                                                                                                                                                                                                                                             | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                   |
| <a href="#">Initial Rescissions of Harmful Executive Orders and Actions</a> | <p>Removes pay transparency and equity requirements for federal workers.</p> <p>Rescinds previous Biden Executive Order requiring executive employees to commit to an ethics code and not accept gifts from lobbyists.</p> <p>Rescinds previous Biden Executive Order establishing the White House Office of Faith-Based and Neighborhood Partnerships.</p> | <b>Status:</b> In effect                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                   |

## Federal Government

| Executive Order/Action                                                                                 | Implications                                                                                                                                                                                                                                                                                                                                                                                                 | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Related Documents                                                                                   |
|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <a href="#"><u>Memorandum on Ensuring the Enforcement of Federal Rule of Civil Procedure 65(c)</u></a> | Requires all federal agencies to request plaintiffs seeking an injunction to post a bond equal to the federal government's potential costs and damages.                                                                                                                                                                                                                                                      | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• <a href="#"><u>Fact Sheet on FRCP 65(c)</u></a></li> </ul> |
| <a href="#"><u>Continuing the Reduction of the Federal Bureaucracy</u></a>                             | Eliminates to the maximum extent possible the: Federal Mediation and Conciliation Service, United States Agency for Global Media, Woodrow Wilson International center for Scholars in the Smithsonian Institution, Institute of Museum and Library Services, United States Interagency Council on Homelessness, Community Development Financial Institutions Fund, and Minority Business Development Agency. | <p><b>Challenged by:</b> <a href="#"><u>Rhode Island v. Trump, American Library Association v. Sonderling</u></a></p> <p><b>Status:</b> Partially blocked to certain agencies, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to stop the elimination of IMLS and other agencies.</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>ALA Denying Preliminary Injunction</u></a></li> <li>• <a href="#"><u>RI Permanent Injunction applied to IMLS, MBDA, FMCS, USICH</u></a></li> <li>• <a href="#"><u>1st Circuit Dismissal of RI Appeal (case closed)</u></a></li> </ul> |                                                                                                     |
| <a href="#"><u>Eliminating Waste and Saving Taxpayer Dollars by Consolidating Procurement</u></a>      | <p>Consolidates all domestic federal procurement into the General Services Administration (GSA).</p> <p>Requires all agencies to submit proposals for GSA to conduct domestic procurement within 60 days</p>                                                                                                                                                                                                 | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     |

## Federal Government

| Executive Order                                                                                               | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Status                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Implementing the President's "Department of Government Efficiency" Cost Efficiency Initiative</a> | <p>Requires each agency to build a centralized technological system to record payments issued by covered contracts and grants.</p> <p>Requires a brief, written justification for each payment to be posted publicly, as permitted by law.</p> <p>Requires a mechanism to pause and rapidly review any payment.</p> <p>Requires review of all existing covered contracts and grants and, where appropriate, termination or modification to reduce overall spending or reallocation to promote efficiency and advance policies.</p> <p>Prioritizes review of covered contracts and grants to educational institutions and foreign entities for waste, fraud, and abuse within 30 days.</p> <p>Requires new guidance for new contracts or modifying existing contracts.</p> | <p><b>Challenged by:</b> <a href="#">American Federation of Government Employees, AFLI-CIO v. Trump</a></p> <p><b>Status:</b> Blocked, litigation ongoing</p> <p><b>Lawsuit Summary:</b> Challenging large-scale reductions in force.</p> <ul style="list-style-type: none"> <li>• <a href="#">AFGE Preliminary Injunction</a></li> <li>• <a href="#">AFGE 9th Circuit invalidates PI</a></li> </ul> |
| <a href="#">Stopping Waste, Fraud, and Abuse by Eliminating Information Silos</a>                             | <p>Directs Agency Heads to authorize and facilitate intra- and inter-agency sharing and consolidation of unclassified agency records.</p> <p>Requires Agency Heads to ensure the Federal Government "has unfettered access to comprehensive data from all State programs that receive Federal funding."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Status:</b> In effect.</p>                                                                                                                                                                                                                                                                                                                                                                     |



## Federal Government

| Executive Order                                                      | Implications                                                                                                                                                                                                                                                                                                                                                                                                                         | Status                    | Related Documents                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#"><u>Hiring Freeze</u></a>                                 | Implements federal hiring freeze.                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Status:</b> In effect. | <ul style="list-style-type: none"> <li>• <a href="#"><u>OMB/OPM Hiring Freeze Guidance</u></a></li> <li>• <a href="#"><u>OPM DEIA Guidance</u></a></li> <li>• <a href="#"><u>DOJ DEI/DEIA Memo</u></a></li> <li>• <a href="#"><u>EEOC What to Do DEI Guidance</u></a></li> <li>• <a href="#"><u>EEOC What to Know DEI Guidance</u></a></li> </ul> |
| <a href="#"><u>Directing the Repeal of Unlawful Regulations</u></a>  | <p>Requires review and repeal of unlawful and potentially unlawful regulations within 60 days.</p> <p>Directs agencies to finalize rules without notice and comment where consistent with the “good cause” exception.</p>                                                                                                                                                                                                            | <b>Status:</b> In effect. |                                                                                                                                                                                                                                                                                                                                                   |
| <a href="#"><u>Reducing Anti-Competitive Regulatory Barriers</u></a> | Requires agencies to identify anti-competitive regulations that create or facilitate monopolies, create unnecessary barriers to entry, limit competition between competing entities, create or facilitate licensure or accreditation requirements that unduly limit competition, unnecessarily burden the procurement processes, or otherwise impose anti-competitive restraints or distortions on the operation of the free market. | <b>Status:</b> In effect. |                                                                                                                                                                                                                                                                                                                                                   |
| <a href="#"><u>Restoring Common Sense to Federal Procurement</u></a> | Requires agencies to amend the Federal Acquisition Regulation (FAR) to only contain provisions required by statute or are otherwise necessary to support simplicity and usability, strengthen the efficiency of the procurement system, or protect economic or national security interests.                                                                                                                                          | <b>Status:</b> In effect. |                                                                                                                                                                                                                                                                                                                                                   |

## Federal Government

| Executive Order                                                                          | Implications                                                                                                                                                                                                                                            | Status                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#"><u>Ensuring Commercial Cost-Effective Solutions in Federal Contracts</u></a> | Requires agency contracting officers to conduct a review of all open agency solicitations and notices for non-commercial products or services and consolidate them into a proposed application requesting approval for the agency's approval authority. | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                     |
| <a href="#"><u>Ending Taxpayer Subsidization of Biased Media</u></a>                     | Ceases all Federal funding and cancels existing funding for National Public Radio (NPR) and the Public Broadcasting Service (PBS).                                                                                                                      | <p><b>Challenged by:</b> <a href="#"><u>National Public Radio v. Trump</u></a>, <a href="#"><u>Public Broadcasting Service v. Trump</u></a></p> <p><b>Status:</b> In effect, litigation pending.</p> <p><b>Lawsuit Summary:</b> Seeking to stop the elimination of funding for NPR and PBS, respectively.</p> |
| <a href="#"><u>Improving Our Nation Through Better Design</u></a>                        | Establishes a national initiative to improve visual presentation and usability of Federal services in digital and physical spaces.                                                                                                                      | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                     |

## Federal Government

| Executive Order                                                          | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Status                           |
|--------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <p><a href="#"><u>Improving Oversight of Federal Grantmaking</u></a></p> | <p>Requires each agency to have a Presidential appointee to create a review process of new funding opportunity announcements and review discretionary grants to ensure consistency with agency priorities and national interest.</p> <p>Requires review process to incorporate: review and approval of funding opportunity announcements by political appointee, continuation of existing coordination with OMB, review by designated subject-matter experts, review for necessary requirements for adequate evaluation and plain language, interagency coordination, additional review for scientific research discretionary grants, pre-issuance review of discretionary award.</p> <p>Prohibits discretionary awards to be used to fund, promote, encourage, subsidize or facilitate racial preferences, awardees that deny a “sex binary” or “the notion that sex is a chosen or mutable characteristic,” “illegal immigration,” or “any other initiatives that compromise public safety or promote anti-American values.”</p> <p>Prefers discretionary awards to be given to institutions with lower indirect cost rates.</p> <p>Requires discretionary grants to be given to a broad range of recipients and not focused to previous awardees.</p> <p>Requires revision of the Uniform Guidance and other guidance to streamline application requirements and clarify and require discretionary grants to permit termination for convenience.</p> <p>Requires each agency to revise the terms and conditions to permit immediate termination for convenience or clarify termination is permitted if no longer advancing agency priorities or the national interest and requires the terms in all future grants and regulations.</p> <p>Requires language in future discretionary grant agreements to prohibit recipients from drawing down general funds for projects without the affirmative authorization of the agency and to provide written specific explanations or support for requests for each drawdown.</p> | <p><b>Status:</b> In effect.</p> |

## Federal Government

| Executive Action                                                                                        | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Status                           |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <p><a href="#"><u>Memorandum Countering Domestic Terrorism and Organized Political Violence</u></a></p> | <p>Directs the National Joint Terrorism Task Force and its local offices (JTTFs) to “coordinate and supervise a comprehensive national strategy to investigate, prosecute, and disrupt entities and individuals engaged in acts of political violence and intimidation designed to suppress lawful political activity or obstruct the rule of law.”</p> <p>Directs the JTTFs to investigate potential Federal crimes relating to recruiting or radicalizing persons; institutional and individual funders, officers and employees of organizations aiding and abetting principal actors engaging in criminal conduct; and nongovernmental organizations and American citizens with close ties to foreign government, agents, citizens, foundations, or influence networks engaged in violations of the Foreign Agents Registration Act or money laundering by supporting or encouraging domestic terrorism.</p> <p>Directs the Attorney General to issue specific guidance that ensures domestic terrorism priorities include politically motivated terrorist acts.</p> <p>Directs the Secretary of the Treasury to make available resources to identify and disrupt financial networks that fund domestic terrorism and political violence.</p> <p>Directs the Commissioner of the IRS to ensure no tax-exempt entity is directly or indirectly financing political violence or domestic terrorism and to refer organizations, employees, and officers to the DOJ for investigation.</p> <p>Directs Federal law enforcement agencies to question and interrogate individuals engaged in political violence or lawlessness regarding the entity or individual organizing such actions and related financial sponsorship.</p> <p>Permits the Attorney General to recommend any group or entity engaged in activities meeting the definition of “domestic terrorism” to be designated as a “domestic terrorism organization.”</p> <p>Directs the Attorney General and Secretary of Homeland Security to designate domestic terrorism a national priority area and develop grant programs to detect, prevent, and protect against threats.</p> | <p><b>Status:</b> In effect.</p> |

# Federal Government

| Executive Action                                                                                                               | Implications                                                                                                                                                                                                  | Status                           |
|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <a href="#">Memorandum: Use of Appropriated Funds for Illegal Lobbying and Partisan Political Activity by Federal Grantees</a> | <p>Directs the Attorney General to investigate whether Federal grant funds are being used to illegally support lobbying activities and take appropriate action.</p> <p>Requires a report within 180 days.</p> | <p><b>Status:</b> In effect.</p> |

# Immigration

## Nonprofit Impact

Nonprofits working with immigrant populations, providing legal assistance or training, or delivering humanitarian or other direct aid, may see the need for services increase, may lose funding, and could be targeted by law enforcement. Human services and social services could also be targeted.

| Executive Order                                                 | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Related Documents                                                                                                                                                  |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Protecting the American People Against Invasion</a> | <p>Directs relevant federal agencies to take action to remove undocumented immigrants from the country.</p> <p>Requires the Attorney General and Secretary of Homeland Security to review all federal contracts, grants, and other agreements providing funding to nongovernmental organizations supporting or providing services to “illegal aliens” for conformity, waste, fraud, abuse, and compliance with immigration laws and pauses funding.</p> <p>Terminates agreements determined to be in violation and initiates clawback or recoupment.</p> <p>Directs the creation of statewide Homeland Security Taskforces and detention centers.</p> <p>Requires the identification of all “unregistered illegal aliens”.</p> <p>Directs relevant agencies to take action to block federal funding to sanctuary cities.</p> <p>Requires all federal agencies to ensure undocumented immigrants do not receive any public benefits.</p> | <p><b>Challenged by:</b> <a href="#">San Francisco v. Trump</a>, <a href="#">Chelsea v. Trump</a>, <a href="#">Make the Road New York v. Noem</a>, <a href="#">Amica Center for Immigrant Rights v. DOJ</a></p> <p><b>Status:</b> Blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging targeting sanctuary cities, expedited removal, and immigrants’ access to counsel.</p> <ul style="list-style-type: none"> <li>• <a href="#">SF Preliminary Injunction</a></li> <li>• <a href="#">SF Order Clarifying Conditions on Grants</a></li> <li>• <a href="#">SF Preliminary Injunction Extension 8/22/25</a></li> <li>• <a href="#">Amica Denial of Preliminary Injunction</a></li> <li>• <a href="#">Amica Appeal to DC Circuit</a></li> <li>• <a href="#">Make the Road Opinion</a></li> <li>• <a href="#">Chelsea District Court denies Preliminary Injunction</a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">DOJ Sanctuary Jurisdiction Memo</a></li> <li>• <a href="#">DOJ List of Sanctuary Jurisdictions</a></li> </ul> |

# Immigration

| Executive Order                                                          | Implications                                                                                                                                                                                                                                                                               | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Realigning the United States Refugee Admissions Program</a>  | <p>Suspends the US Refugee Admissions Program.</p>                                                                                                                                                                                                                                         | <p><b>Challenged by:</b> <a href="#">Pacito v. Trump</a></p> <p><b>Status:</b> Partially blocked, litigation ongoing. Refugee reception and placements agreements reinstated.</p> <p><b>Lawsuit Summary:</b> Challenging the termination of the USRAP.</p> <ul style="list-style-type: none"> <li>• <a href="#">Pacito Preliminary Injunction</a></li> <li>• <a href="#">9th Circuit Clarification narrowing PI</a></li> <li>• <a href="#">State Stop Work Order</a></li> <li>• <a href="#">Compliance Framework Order</a></li> <li>• <a href="#">Class Certification Granted</a></li> <li>• <a href="#">9th Circuit Temporary Stay original and second PI</a></li> <li>• <a href="#">Pacito Gov't Changes Resettlement Practices</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <a href="#">Protecting the Meaning and Value of American Citizenship</a> | <p>Challenges birthright citizenship under the 14th Amendment when the person's mother was unlawfully in the US and the father was not a US citizen or permanent resident or the mother's presence was lawful but temporary and the father was not a US citizen or permanent resident.</p> | <p><b>Challenged by:</b> <a href="#">CASA v. Trump</a>, <a href="#">Washington v. Trump</a> (class action), <a href="#">New Jersey v. Trump</a>, <a href="#">Barbara et al. v. Trump</a>, <a href="#">Washington v. Trump</a></p> <p><b>Status:</b> Blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Multiple cases challenging whether limiting birthright citizenship is constitutional. The Supreme Court failed to rule on the constitutionality question and will wait for a future case to make final determination. Justice Sotomayor's dissent stated it was unconstitutional.</p> <ul style="list-style-type: none"> <li>• <a href="#">SCOTUS Decision</a></li> <li>• <a href="#">Barbara Classwide Preliminary Injunction</a></li> <li>• <a href="#">WA 9th Circuit Universal Preliminary Injunction</a></li> <li>• <a href="#">NJ Dist Ct Upholding Preliminary Injunction</a></li> <li>• <a href="#">CASA Classwide Preliminary Injunction</a></li> <li>• <a href="#">CASA WA Gov't Appeals PI to Supreme Court (cert. petition)</a></li> <li>• <a href="#">CASA WA Gov't Appealing Classwide PI</a></li> <li>• <a href="#">NJ 1st Circuit upholds Preliminary Injunction</a></li> <li>• <a href="#">CASA Appeal of PI Suspended</a></li> <li>• <a href="#">NJ Fed Gov't Appeals PI to Supreme Court</a> (cert. petition)</li> </ul> |



# Immigration

| Executive Order                                                             | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><a href="#"><u>Ending Taxpayer Subsidization of Open Borders</u></a></p> | <p>Directs federal departments and agencies to identify federally funded programs that “illegal aliens” can access, including cash and non-cash public benefits and ensure payments to states and localities do not subsidize or promote “illegal immigration” or “abet so-called ‘sanctuary’ policies.”</p> <p>Requires enhanced eligibility verification systems to exclude any “ineligible alien.”</p> <p>Requires the OMB and other assigned staff to identify all sources of federal funding for “illegal aliens,” recommend other actions, and refer “improper receipt or use of Federal benefit” to DOJ and DHS within 30 days.</p> | <p><b>Challenged by:</b> <a href="#"><u>New York v. Dept. of Justice</u></a></p> <p><b>Status:</b> Blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging Notices regarding the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>NY Preliminary Injunction</u></a></li> <li>• <a href="#"><u>NY Enforcement of HUD PRWORA Notice Deferred Until Final Judgment</u></a></li> <li>• <a href="#"><u>NY 1st Circuit Dismisses Appeal of PI</u></a></li> </ul> |
| <p><a href="#"><u>Securing Our Borders</u></a></p>                          | <p>Prioritizes building a physical wall, deterrent and prevention of entry, detention, removal, criminal charges, cooperation with State and local law enforcement, and obtaining operational control of the borders.</p>                                                                                                                                                                                                                                                                                                                                                                                                                  | <p><b>Status:</b> In effect.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

# LGBTQ+

## Nonprofit Impact

Charitable nonprofits serving LGBTQ+ communities, and providing gender-affirming care and other services, may experience loss of federal funding, increase in demand for services, and strained relationships with government partners.

| Executive Order                                                                                                                | Implications                                                                                                                                                                                                                                                                                                                                                                                                                         | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Related Documents                                                                     |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <a href="#"><u>Initial Rescissions of Harmful Executive Orders and Actions</u></a>                                             | Revokes previous executive order ( <a href="#"><u>EO 13988</u></a> ) preventing and combating discrimination on the basis of gender identity or sexual orientation.                                                                                                                                                                                                                                                                  | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                       |
| <a href="#"><u>Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government</u></a> | <p>Requires the United States to recognize only two sexes, male and female.</p> <p>Directs the Executive Branch to enforce all sex-protective laws under the lens of two sexes.</p> <p>Directs government-issued identification documents to only recognize two sexes.</p> <p>Prohibits federal funds to be used to promote gender ideology.</p> <p>Requires all agencies to remove all references that promote gender ideology.</p> | <p><b>Challenged by:</b> <a href="#"><u>National Urban League v. Trump</u></a>, <a href="#"><u>Rhode Island Latino Arts v. NEA</u></a>, <a href="#"><u>San Francisco AIDS Foundation v. Trump</u></a>, <a href="#"><u>Rhode Island Coalition Against Domestic Violence v. Bondi</u></a></p> <p><b>Status:</b> In effect, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging this executive order and related actions enforcement as unconstitutional.</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>RI Order Denying Preliminary Injunction</u></a></li> <li>• <a href="#"><u>RI Preliminary Stay</u></a></li> <li>• <a href="#"><u>RI Preliminary Injunction</u></a></li> <li>• <a href="#"><u>Nat'l Urban League Denying Preliminary Injunction</u></a></li> <li>• <a href="#"><u>SF AIDS Preliminary Injunction</u></a></li> <li>• <a href="#"><u>SF AIDS Paused</u></a></li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#"><u>HHS Action</u></a></li> </ul> |

# Environment

## Nonprofit Impact

Nonprofits receiving or expecting funding from Elective Pay (sometimes known as “Direct Pay”), Inflation Reduction Act, or other Infrastructure Investment and Jobs Act programs may have the programs and funds terminated.

Charitable nonprofits may also be contacted to comment on their experience before, during, and after natural disasters.

| Executive Order                                                           | Implications                                                                                                                                                                                                                                                                                                                                                                                                                             | Status                    | Related Documents                                                                     |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------|
| <a href="#">Council to Assess the Federal Emergency Management Agency</a> | Creates a Federal Emergency Management Agency (FEMA) Review Council that shall meet regularly and “solicit information and ideas from a broad range of stakeholders, including...nonprofit organizations.” This Council will give the President a report on FEMA’s response to natural disasters since 2020 that evaluates whether the agency can serve its functions. The first public meeting will be held 90 days from Jan. 24, 2025. | <b>Status:</b> In effect. | <ul style="list-style-type: none"><li><a href="#">FEMA Memo of 34 Words</a></li></ul> |
| <a href="#">Achieving Efficiency Through State and Local Preparedness</a> | Requires a National Resilience Strategy.<br><br>Requires review of and recommendations on critical infrastructure policies.<br><br>Requires a National Risk Register.                                                                                                                                                                                                                                                                    | <b>Status:</b> In effect. |                                                                                       |

## Environment

| Executive Order                            | Implications                                                                                                                        | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Related Documents                                                                       |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <a href="#">Unleashing American Energy</a> | <p>Expands energy exploration on Federal lands and waters, eliminates electric vehicle (EV) mandate, terminates Green New Deal.</p> | <p><b>Challenged by:</b> <a href="#">Woonasquatucket River Watershed Council, NCN v. Ag, Green &amp; Health Home Initiatives v. EPA</a></p> <p><b>Status:</b> Blocked, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenging the Administration's freeze on funding from the Inflation Reduction Act (IRA) and the Infrastructure Investment and Jobs Act (IIJA), known also as the Bipartisan Infrastructure Law.</p> <ul style="list-style-type: none"> <li>• <a href="#">Woonasquatucket Preliminary Injunction</a></li> <li>• <a href="#">Order - EPA Grants Did Not Violate PI</a></li> <li>• <a href="#">Woonasquatucket Denying Hold on Appeal</a></li> <li>• <a href="#">GHII Summary Judgment</a></li> <li>• <a href="#">Woonasquatucket - Compliance Report</a></li> <li>• <a href="#">Status Report Documenting Gov't Delays</a></li> <li>• <a href="#">Status Report Seeking Sanctions Against the Gov't</a> [01/30/26]</li> </ul> | <ul style="list-style-type: none"> <li>• <a href="#">EPA's Press Release</a></li> </ul> |

# Environment

| Executive Order                                                             | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Status                           |
|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <a href="#">Initial Rescissions of Harmful Executive Orders and Actions</a> | <p>Revokes previous executive order (<a href="#">EO 14052</a>) to implement the Infrastructure Investment and Jobs Act.</p> <p>Federal agencies are directed to immediately pause the disbursement of funds appropriated through the Inflation Reduction Act of 2022 (Public Law 117-169) or the Infrastructure Investment and Jobs Act (Public Law 117-58).</p> <p>Agencies have three months to report to the White House on whether the paused funds align with the President’s stated policy objectives. If the funds do not align, funds will not be distributed.</p> | <p><b>Status:</b> In effect.</p> |

# Census

## Nonprofit Impact

Lays the groundwork for legislation and other actions to exclude noncitizens from future Censuses. The National Council of Nonprofits submitted an [amicus brief](#) when this issue was heard by the U.S. Supreme Court for the 2020 Census.

| Executive Order                                                             | Implications                                                                                                                                                                                                                                                              | Status                    | Related Documents                                                                                  |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------------------|
| <a href="#">Initial Rescissions of Harmful Executive Orders and Actions</a> | <p>Rescinds previous Biden Executive Order that required all persons, regardless of citizenship or immigration status, to be counted in the Census.</p> <p>Rescinds previous Biden Executive Order directing federal agencies to provide access to voter information.</p> | <b>Status:</b> In effect. | <ul style="list-style-type: none"><li>• <a href="#">Termination of Census Committees</a></li></ul> |

# Civic Engagement

## Nonprofit Impact

Restricts voting access and nonprofit advocacy rights.

| Executive Order                                                               | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Preserving and Protecting the Integrity of American Elections</a> | <p>Requires the mail voter registration form to require proof of citizenship.</p> <p>Requires recording of the type of document an applicant uses as proof of citizenship.</p> <p>Requires identification of “unqualified voters registered in the States”.</p> <p>Requires information on foreign nationals who have registered or have voted.</p> <p>Requires assessment of citizenship prior to providing voter registration forms for public assistance programs.</p> <p>Prioritizes enforcement against noncitizens registering to vote.</p> <p>Removes federal funds to states that do not comply.</p> <p>Changes voting standards, guidelines, administration, and electronic systems.</p> <p>Conditions funding for the states on “uniform and nondiscriminatory standards... that define what constitutes a vote and what will be counted as a vote.”</p> <p>Prioritizes enforcement against foreign nationals from contributing or donating in elections.</p> <p>Prioritizes enforcement against lobbying by organizations or entities that have received federal funds.</p> | <p><b>Challenged by:</b> <a href="#">League of Women Voters Education Fund v. Trump</a>, <a href="#">Washington v. Trump</a></p> <p><b>Status:</b> Partially blocked regarding documentary proof of citizenship and assessment of citizenship prior to registration assistance, partially litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Challenges the executive order as unconstitutional and in violation of federal statutes.</p> <ul style="list-style-type: none"><li>• <a href="#">LWV Consolidated Preliminary Injunction</a></li><li>• <a href="#">LWV PI Blocking Voter Documentation Requirement</a></li><li>• <a href="#">WA Summary Judgment</a></li><li>• <a href="#">LWV District Court Partial Permanent Injunction</a> [01/30/26]</li></ul> |



# House of Worship/Faith-Based Groups

## Nonprofit Impact

Houses of worship and faith-based groups and community organizations may be now eligible to receive or access federal grants, contracts, programs, and other federal funding opportunities. Recommendations regarding free speech of pastors and religious leaders could lead to an attempt to [eliminate nonprofit nonpartisanship](#) and allow partisan politics to use charitable nonprofits for partisan purposes.

| Executive Order                                               | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Status                           |
|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <a href="#">Establishment of the White House Faith Office</a> | <p>Establishes the White House Faith Office to “empower faith-based entities, community organizations, and houses of worship to serve families and communities.”</p> <p>Replaces the former White House Office of Faith-Based and Community Initiatives.</p> <p>Charges the White House Faith Office to make recommendations; convene meetings; advise on the implementation of policy; showcase innovative initiatives; coordinate and support on training and education; consult on volunteerism, charitable giving, and payroll deductions; identify and promote grant opportunities; identify concerns; and make proposals to reduce burdens on the free exercise of religion.</p> <p>Clarifies that the “executive branch wants faith-based entities, community organizations, and houses of worship, to the fullest extent permitted by law, to compete on a level playing field for grants, contracts, programs, and other Federal funding opportunities.”</p> | <p><b>Status:</b> In effect.</p> |

# House of Worship/Faith-Based Groups

| Executive Order                                                   | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Status                           |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <a href="#">Establishment of the Religious Liberty Commission</a> | <p>Establishes a 14-person Commission to produce a report on religious liberty in America.</p> <p>Requires the Commission to consider the First Amendment rights of pastors, religious leaders, houses of worship, faith-based institutions, and religious speakers; attacks on houses of worship; debanking of religious entities; First Amendment rights of teachers, students, military chaplains, service members, employers, and employees; conscience protections concerning vaccine mandates; parents' authority; Government displays; and free exercise of faith without fear or Government censorship or retaliation.</p> | <p><b>Status:</b> In effect.</p> |

## Other

### Nonprofit Impact

Nonprofits working on specific issues and from various subsectors seen as and providing information contrary to the Administration may be targeted.

Arts and culture nonprofits, museums, and libraries will no longer be “integrated into strategies, policies, and programs that advance the economic development, well-being, and resilience of all communities”, among other things, by the Trump Administration.

Nonprofits that provide foreign assistance may be targeted.

| Executive Order                                                           | Implications                                                                                                                                                          | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Restoring Freedom of Speech and Ending Federal Censorship</a> | Claims combatting “misinformation,” “disinformation,” and “malinformation” are infringements on First Amendment freedom of speech.                                    | <b>Status:</b> In effect.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <a href="#">Reevaluating and Realigning United States Foreign Aid</a>     | Requires foreign assistance to be disbursed in a manner aligned with the foreign policy of the President and places a 90-day pause on foreign development assistance. | <p><b>Challenged by:</b> <a href="#">AIDS Vaccine Advocacy Coalition v. State</a>, <a href="#">Global Health Council v. Trump</a> (consolidated with AIDS)</p> <p><b>Status:</b> Blocked; payments are to resume; OMB is not to give effect to any terminations, suspensions, or stop work orders, litigation ongoing.</p> <p><b>Lawsuit Summary:</b> Seeking to require the State Department and USAID to resume foreign aid payments.</p> <ul style="list-style-type: none"><li>• <a href="#">DC Circuit Overruling AIDS Preliminary Injunction</a></li><li>• <a href="#">DC Circuit Invalidating AIDS/Global PI</a></li><li>• <a href="#">Dist Ct Denies Stay Pending Appeal</a></li><li>• <a href="#">Dist Ct Order Clarifying PI</a></li><li>• <a href="#">AIDS/Global Final Status Report</a></li></ul> |

## Other

| Executive Order                                                                    | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Status                    |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <a href="#"><u>Initial Rescissions of Harmful Executive Orders and Actions</u></a> | Rescinds previous Order promoting the arts, humanities, and museum and library services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Status:</b> In effect. |
| <a href="#"><u>Restoring Public Service Loan Forgiveness</u></a>                   | Directs the Dep. of Ed to propose changes to the <a href="#"><u>Public Service Loan Forgiveness</u></a> (PSLF) program to exclude certain nonprofit organizations “whose activities have a substantial illegal purpose,” including “terrorism”, “child abuse,” “illegal discrimination,” or “disorderly conduct.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Status:</b> In effect. |
| <a href="#"><u>Ending Crime and Disorder on America’s Streets</u></a>              | <p>Directs the Attorney General and Secretaries of Health and Human Services, Housing and Urban Development, and Transportation to immediately assess their discretionary grant programs to prioritize States and municipalities with stricter laws on homelessness.</p> <p>Directs the Department of Housing and Urban Development to change federal grant guidelines by requiring recipients for homeless assistance to collect and share health-related data to law enforcement under specific circumstances.</p> <p>Increases requirements for Federal grantees to show they reduce homelessness and increase public safety.</p> <p>Directs the elimination of funding for “housing first”, “harm reduction”, and “safe consumption” programs.</p> <p>Directs the Secretary of Health and Human Services and the Secretary of Housing and Urban Development to increase accountability and grants awarded for homelessness assistance and transitional living programs.</p> | <b>Status:</b> In effect. |

Other

| Executive Order                                                     | Implications                                                                                                                                                                                                                            | Status                    |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <a href="#">Ensuring Transparency in Higher Education Admission</a> | Directs the Secretary of Education to revamp the Integrated Postsecondary Education Data System, expand scope of reporting and transparency into admissions, increase accuracy checks, take remedial action for failure to submit data. | <b>Status:</b> In effect. |

## Summary of 2025 Executive Orders Addressing Diversity, Equity and Inclusion

*March 20, 2025*

President Trump has issued dozens of executive orders since taking office in January 2025. This summary provides an overview of two such orders focused on diversity, equity and inclusion (“DEI”) practices within the federal government and in the private sector, and comments generally on how the orders may affect charitable organizations.<sup>1</sup>

**What is an Executive Order?** Article II of the United States Constitution vests the President with executive power over the federal government, including the obligation to “take care that the laws be faithfully executed.” Executive orders do not override federal laws; they are typically directives to executive agencies providing instructions on carrying out the laws.

Despite repeatedly calling DEI practices “illegal”, neither of Executive Order 14151 or 14173 (the “Executive Orders”) actually declares any specific DEI activity as newly illegal. In fact, each explicitly acknowledges that it shall be “implemented consistent with applicable law.” In other words, there has been no substantive change in federal law because of the Executive Orders. However, concerned organizations can and should take steps to analyze both their risk tolerance and the risk profile of their organizations and programs, and be ready to make adjustments as the legal landscape continues to evolve.

**EO 14151: Ending Radical and Wasteful Government DEI Programs and Preferencing.** Executive Order 14151 purports to end “illegal and immoral discrimination programs going by the name “diversity, equity, and inclusion”,<sup>2</sup> that were imposed by President Biden on the federal government.<sup>3</sup> The order is primarily internally-facing, directing high-level government officials to take various actions to terminate all “discriminatory programs”, including “illegal DEI...mandates, policies, programs, preferences, and activities” in the federal government. By March 21, 2025, various officials are directed to:

- terminate “to the maximum extent allowed by law,” all DEI, “environmental justice,” and “equity-related” offices, positions, actions, initiatives, programs, grants, contracts, and

---

<sup>1</sup> This summary does not comment specifically on several other executive orders and presidential memoranda that attempt to limit or prohibit federal government and private sector equity and inclusiveness practices, or target nongovernmental organizations in other ways, including but not limited to: Executive Order 14168 (Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government); Executive Order 14183 (Prioritizing Military Excellence and Readiness); Executive Order 14185 (Restoring America’s Fighting Force); Executive Order 14187 (Protecting Children from Chemical and Surgical Mutilation); Executive Order 14190 (Ending Radical Indoctrination in K-12 Schooling); and Executive Order 14201 (Keeping Men Out of Women’s Sports).

<sup>2</sup> The Executive Orders sometimes refer to “diversity, equity, inclusion, and accessibility” or DEIA. We have used DEI throughout this summary to refer to both.

<sup>3</sup> EO 14151 revokes a 2021 order by President Biden requiring the executive agencies to account for racial inequities and to support underserved communities.  
{01885043.DOCX; 5}

performance requirements for federal employees, contractors, or grantees (the “Termination Provision”);

- compile several lists identifying DEI or “environmental justice” positions, committees, programs, services, activities, budgets, and expenditures, federal contractors who provided DEI training or training materials to federal agencies, and grantees who received federal funding to provide or advance DEI or environmental justice programs or services;
- identify whether anything on those lists has been “misleadingly relabeled” in an attempt to preserve DEI functions;
- assess the “operational impact and cost” of the Biden administration’s DEI efforts;
- recommend actions, such as “Congressional notifications” to align agency and department practices with “the policy of equal dignity and respect”; and
- meet monthly to hear reports on the above issues, discuss barriers to complying with the order, monitor and track agency progress toward compliance, and identify areas for Presidential or legislative action.

**EO 14173: Ending Illegal Discrimination and Restoring Merit-Based Opportunity.** Executive Order 14173 declares it is “the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work,” and revokes prior presidential orders and memoranda that are presumed contrary.<sup>4</sup> Federal agencies are directed to terminate all “discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements,” to enforce “our longstanding civil-rights laws,” and to combat “illegal private-sector DEI” activities. Of particular importance to charities, the order:

- instructs the Department of Labor to stop “allowing” federal contractors and subcontractors to engage in “workforce balancing based on race, color, sex, sexual preference, religion or national origin”;
- requires a contractor or grantee of a federal agency to certify that it “does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws” (the “Certification Provision”);
- directs the Attorney General by May 20, 2025 to submit a report containing recommendations for enforcing Federal civil-rights laws and taking other appropriate measures to “encourage the private sector to end illegal discrimination and preferences, including DEI” (the “AG Report”, and such provision, the “Enforcement Threat Provision”);
- describes that the AG Report must identify, among other things:
  - the “most egregious and discriminatory DEI practitioners”
  - lists from each agency of up to nine potential civil compliance investigations of “large nonprofit corporations or associations, foundations with assets of 500 million dollars or more...and institutions of higher education with endowments over 1 billion dollars”; and
  - litigation and potential regulatory action and sub-regulatory guidance; and

---

<sup>4</sup> The following orders and memoranda are revoked: Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations); Executive Order 13583 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce); Executive Order 13672 (Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity); The Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National Security Workforce); Executive Order 11246 (Equal Employment Opportunity). {01885043.DOCX; 5}



- directs the Attorney General and Secretary of Education to issue guidance on complying with *Students for Fair Admissions, Inc. v. Harvard*.

**Subsequent Actions.** The Attorney General released two memos on February 5, 2025 that direct the Department of Justice (“DOJ”) to eliminate DEI within the DOJ and in the private sector, respectively. The memo directed to the private sector states the DOJ’s intent to “investigate, eliminate, and penalize illegal DEI” activities in the private sector and in educational institutions that receive federal funds.<sup>5</sup> It also promises a portion of the DOJ’s Report will be delivered by March 1, 2025, to include proposals for “criminal investigations and for up to nine potential civil compliance investigations of entities that meet the criteria” of EO 14173.<sup>6</sup>

The Office of Personnel Management also issued a memo on February 5, 2025, indicating that the EO 14173 rescinds two prior orders that were the “primary legal authorities” for employee resource groups (“ERGs”), and that the government should therefore “prohibit ERGs that promote unlawful DEIA initiatives or advance recruitment, hiring, preferential benefits...or employee retention agendas based on protected characteristics.” ERGs could still “host lunches, engage in mentorship programs, and otherwise gather for social and cultural events.”

The Department of Education’s Office for Civil Rights issued a “Dear Colleague” letter<sup>7</sup> on February 14, 2025 addressed to federally funded educational institutions. According to the letter, the Supreme Court ruling in *Students for Fair Admissions, Inc. v. Harvard*, which prohibited use of race in admissions decisions, “applies more broadly” to all race, color, or national origin-based decisions and benefits provided by federally funded educational institutions. It requires such institutions to comply with the letter’s guidance within 14 days or be subject to investigation and cancellation of federal funding.

Four nonprofit plaintiffs filed suit to challenge three of the above-described provisions of the Executive Orders: (i) the Termination Provision, (ii) the Certification Provision, and (iii) the Enforcement Threat Provision.<sup>8</sup> On February 21, 2025, the US District Court of Maryland issued a nationwide preliminary injunction, preventing the enforcement of these three provisions of the Executive Orders.<sup>9</sup> On March 14, 2025, however, a three-judge panel of the Fourth Circuit Court of Appeals overturned the District Court’s decision, and lifted the nationwide preliminary injunction, thus allowing the Executive Orders to be enforced while the lawsuit challenging the Executive Orders is being resolved. As of the date of this memorandum, the Executive Orders are therefore currently enforceable.

---

<sup>5</sup> Interestingly, a footnote clarifies that the memorandum does not prohibit “educational, cultural, or historical observances - such as Black History Month, International Holocaust Remembrance Day, or similar events - that celebrate diversity, recognize historical contributions, and promote awareness without engaging in exclusion or discrimination.”

<sup>6</sup> As of the date of this summary, no such joint report by the Civil Rights Division and Office of Legal Policy are available in a basic web search.

<sup>7</sup> While the letter explicitly acknowledges that it “does not have the force and effect of law and does not bind the public or create new legal standards,” it is an indication of the Department of Education’s priorities for enforcement of Title VI of the Civil Rights Act of 1964.

<sup>8</sup> On February 19, 2025, The National Association of Diversity Officers in Higher Education, the National Urban League, the National Fair Housing Alliance, and the AIDS Foundation of Chicago alleged that these provisions of the Executive Orders violate constitutional rights, including the Free Speech Clause of the First Amendment and the Due Process Clause of the Fifth Amendment.

<sup>9</sup> The court did not enjoin the Attorney General from preparing reports or pursuing investigations related to anti-DEI directives.

**Impacts on Charities.** Charities should expect to have federal grants and contracts with DEI components terminated, and to be identified on lists of grantees, contractors, or expenditures accordingly. Some of our clients have been approached to modify a grant or contract that included DEI components to exclude those components, rather than have them terminated. Agreeing to such modifications could pose risk if the modifications are considered a “misleading” relabeling of the activity to preserve DEI functions.

Charities should also expect to begin seeing the required certifications in federal contracts. Because the Executive Orders and other executive branch guidance have not changed federal law, many organizations may be able to sign such certifications referring to “applicable Federal anti-discrimination laws” while still conducting many DEI activities. We advise a careful reading of any such certification, and any representations, warranties, or covenants regarding current and future compliance.

Charities concerned that they may be identified on a list of grantees, contractors, or large nonprofits or foundations, and educational institutions concerned about losing federal funding, are encouraged to take action now. Every charity can benefit from a review of current practices to ensure it is not an easy target for litigation or investigation, and pre-emptively build a strong team of advisors to assist in the event it is targeted for government intervention or litigation (i.e., litigators, crisis communications experts, political consultants). Those conducting DEI activities should also undergo a risk-based assessment to align activities with the organization’s risk tolerance. We can assist with these kinds of reviews and assessments, and provide referrals for additional support.

## CONDUCTING AND FUNDING RACE-CONSCIOUS ACTIVITIES: A RISK ASSESSMENT TOOL

*February 2025*

Race-conscious activities, that is, activities designed to support people of a specific race, have long been accepted as powerful, legally valid weapons in the fight to combat the harmful effects of race-based discrimination and disenfranchisement. However, 501(c)(3) nonprofits—which we refer to in this Tool as “charities”—and their funders working to promote racial justice, eliminate race-based disparities, and build power in communities of color, may have concerns about evolving legal risks in the wake of recent lawsuits (specifically, the U.S. Supreme Court’s June 2023 decision in the *Students for Fair Admissions* case (“*SFFA*”) and others that followed), Executive Orders issued by President Trump in January 2025 (the “Executive Orders”),<sup>1</sup> and publicity surrounding new challenges to race-conscious programs.

Despite these evolving developments and the perception of increasing risk, the vast majority of race-conscious programs that charities conduct and that their funders support remain legal and do not pose a threat, under current law, to a charity’s tax-exempt status. ***Even in this evolving legal landscape, charities and funders can continue, for now, to advance racial equity—directly, explicitly, and effectively.***

This Tool is designed to help organizations that conduct or fund race-conscious programs to make informed decisions about whether, and if so, how to adjust their programs to align their programmatic goals with their risk tolerance. The Tool is ***not designed to address whether an organization’s existing programs are legal*** as currently conducted; for that, organizations should consult legal counsel with civil rights law expertise. (As of this writing, ***no*** existing programs outside college admissions have become illegal yet due to recent or pending court cases, or as a result of the Executive Orders, despite their repeated, misleading references to “illegal” DEI activities.) Our hope is that the Tool reinforces organizations’ racial justice and equity efforts by helping them understand and analyze the underlying factors that may affect their risk of inviting a lawsuit, and identify and evaluate options for altering that risk, increasing their confidence to continue their work and control the narrative surrounding their programs.

This Tool is generic; it does not offer and cannot replace specific legal advice tailored to each organization’s particular facts and circumstances. Consult knowledgeable legal

<sup>1</sup> Soon after taking office in January 2025, President Trump issued a series of Executive Orders (EOs 14148, 14151, 14173, 14185, and 14190) seeking to curtail the promotion of diversity in government and the private sector. These EOs signal the Trump administration’s hostility to diversity, but importantly, do not, by themselves, change current federal civil rights or tax law.

counsel for specific advice about how your organization can manage legal exposures associated with its programs.

The Tool has three parts:

- ***Questions*** identifying a range of factors in three categories that affect risk;
- ***Explanations*** of each factor; and
- ***Further information*** about the Tool and how to use it.

## Questions/Factors

**NOTE:** Having higher risk in one or more factors does not mean that an activity is not legal or should be discontinued, just that the activity may be more likely to be challenged by opponents, and/or that if opponents were to bring a legal challenge, the organization may be less likely to win on the merits. For most organizations, the overall risk profile is more important than any one factor. Relatively high-risk activities may be appropriate for a given organization in light of its specific mission and risk tolerance.

### ● Factors Related to Program Participant Selection/Composition

1. *Do you require an individual applicant (or an organizational applicant's leadership) to be of a specific race, or is the applicant's race one consideration among many in the selection process?*

Specific race is an eligibility requirement.

Open to anyone; race is a key factor.

Open to anyone; race is one factor among many.

2. *Do you require potential beneficiaries to have demonstrated "particularized harm" as a result of structural or institutional racism, or is there no such requirement?*

You don't require evidence of particularized harm.

You require beneficiaries to demonstrate particularized harm.

3. *Does your organization set selection criteria and select program beneficiaries itself, or are other organizations responsible for selection?*

All selections made entirely in-house.

Your organization participates in selection alongside others.

All selections made by others.

4. *Does your organization solicit or accept applications from the public, or does it develop candidates through an internal process?*

Organization publishes criteria and invites applications.

Organization accepts but does not solicit applications.

Organization does not accept applications.

5. *Regardless of the selection process, do the demographic characteristics of the selected individual or organizational beneficiaries suggest that the selection process excluded potential beneficiaries based on race?*

All successful applicants are of the same race.

Most of the successful applicants are people of color.

Successful applicants are a racially diverse group.

## *Questions/Factors (continued)*

### 6. *Does your race-conscious program address core First Amendment rights (freedom of speech, freedom of the press, freedom of religion)?*

Participation in your program does not involve activities protected by the First Amendment (speech, religion, journalism, etc.).

Participation in your program involves the direct exercise of a First Amendment right (speech, religion, journalism, etc.).

### ● *Factors Related to Your Organization and How it Conducts its Race-Conscious Programs*

### 7. *To the extent your public communications describe the degree of race-consciousness in your program, are your internal communications consistent with that description?*

External and internal communications refer explicitly to using race to make decisions.

External communications highlight race-neutral factors, but internal communications reflect race-consciousness.

External and internal communications consistently reflect race-neutrality.

### 8. *Do you receive government funding for your race-conscious program(s)? If so, does the government require that your activities be race-conscious?*

Your program receives public funding without any race-conscious mandate.

You're part of a government-funded program to remedy past discrimination.

Your funding sources are private, race-neutral, and non controversial.

### 9. *Do you require beneficiaries to provide your organization with anything in return for receiving benefits, or are your benefits provided purely as gifts?*

Recipients of the benefits you provide must provide services, produce deliverables, or give up rights in exchange for the benefits.

You provide benefits to recipients without requiring them to do anything, or to give up any rights, in exchange for the benefits.

### 10. *Does your program provide benefits only to individuals selected to participate, or does it target a community?*

Only individuals with specific racial characteristics are eligible for your program.

Your program is available to all individuals in a geographic community selected with reference to the predominant racial characteristics of residents in that community.

## *Questions/Factors (continued)*

### ● *Factors Related to Courts, the Litigation Process, Legislation, or Regulation*

- 11.** *Has a lawsuit been filed in court, or is an opponent using a weaker method, like a “demand letter” directed to your organization or to a regulatory agency, to challenge a race-conscious program similar to yours?*

A program like yours is the subject of a lawsuit that has been filed in court.

You have received a letter from an individual alleging that your program is illegal because it discriminates against that person.

- 12.** *Does your organization have a presence in a place where potential opponents perceive a more favorable judiciary (regardless of where you conduct race-conscious programs)?*

You conduct activities in a jurisdiction more receptive to challenges to race-conscious programs.

You conduct activities in a jurisdiction more protective of race-conscious programs.

- 13.** *Has litigation challenging a race-conscious program like yours resulted in a final decision on the merits?*

Your program is indistinguishable from a program that has been struck down.

Your program has similarities to a program that has been struck down.

Your program’s only similarity to a program that has been struck down is race consciousness.

- 14.** *How similar is your race-conscious program to a program that has been successfully challenged in litigation?*

A substantially similar program was struck down on the merits, and all appeals have been exhausted.

A judicial challenge to a substantially similar program has survived procedural rulings, but merits have not yet been considered.

A lawsuit involving a substantially similar program has been filed, but no other judicial actions have been taken.

- 15.** *Does any final court decision striking down a race-conscious program like yours apply to your organization based on where you operate your programs?*

Final decision applies where you operate.

No final decision applies where you operate.

- 16.** *Has a legislative or regulatory proposal been introduced or passed, or an EO issued, that might affect your program or the risks associated with conducting it?*

Legislation or regulation has been enacted, or an EO has been issued, that directly invalidates or defunds your activities.

Legislation or regulation has been proposed that would, if enacted, directly or indirectly invalidate or defund your activities.



### ***Explanation of Each Question/Factor***

**NOTE:** Having higher risk in one or more factors does **not** mean that an activity is not legal or should be discontinued, just that the activity may be more likely to be challenged by opponents, and/or that if opponents were to bring a legal challenge, the organization may be less likely to win on the merits. For most organizations, the overall risk profile is more important than any one factor. Higher-risk activities may be appropriate in light of an organization's specific mission and risk tolerance. For example, an organization whose mission specifically focuses on race-exclusive strategies, may be comfortable accepting the risk inherent in such programs, but may want to reduce its overall risk by adjusting how it operates and implements its programs.

#### **Factors Related to Program Participant Selection/Composition**

- 1. Do you require an individual applicant (or an organizational applicant's leadership) to be of a specific race, or is the applicant's race one consideration among many in the selection process?***

A program that screens potential participants based on their racial identity is riskier than a program that considers race, among other relevant factors. For example, a grant program that only allows people of a given race, or organizations led by people of a given race, to be eligible to apply is riskier than a grant program that is open to all applicants but still weighs the applicant's race as one factor among many. A program that does not consider race specifically, but rather considers applicants' lived experience (e.g., a history of specific discriminatory treatment based on their race (see Factor 2)) or relevant access or experience (e.g., leaders who have credibility in the target community) poses even less risk. A program that seeks to invest in power building within a community can be designed and implemented without incurring high risk on this factor.

Racial qualifications may be framed as requirements ("this program is open to Black-led organizations"), aspirations ("the ideal candidate will be a Black-led organization" or "... a community-led organization"), or preferences ("Black-led organizations are encouraged to apply"). Requirements are riskier than aspirations, which are, in turn, riskier than preferences.

Where race-conscious selection occurs at the level of *communities*, rather than individuals or organizations, see Factor 10.

**2. *Do you require potential beneficiaries<sup>2</sup> to have demonstrated “particularized harm”<sup>3</sup> as a result of structural or institutional racism, or is there no such requirement?***

A program that is only available to participants based on their specific racial identity, without considering the presence (or absence) of any particularized harm suffered by potential participants, is riskier than a program whose participants have demonstrably experienced the discriminatory treatment that the program is intended to redress. Put another way, a program that assumes harm and provides support based solely on the participant’s race, or that seeks to address broad, systemic, structural, or institutional racism without taking into account an individual beneficiary’s demonstrated experience of harm, may provide a more appealing target for a lawsuit than an activity that provides support based on the specific participant’s lived experience.

**3. *Does your organization set selection criteria and select program beneficiaries itself, or are other organizations responsible for selection?***

Lawsuits opposing race-conscious activities generally target the entities that make specific decisions about who can receive the benefits of the program. The more distant your organization is from these selection decisions, the lower your organization’s risk. Conversely, the more directly or closely involved your organization is in the selection of beneficiaries of a race-conscious program, the greater the risk to your organization.

As a general matter, *funders* of race-conscious programs that are conducted by the funders’ *grantees* will be more removed from the grantee’s selection process, and, therefore, have a lower risk than the grantees conducting the program and making the selections. To our knowledge, private funders that merely support race-conscious programs conducted by others have not been sued as a result of funding those programs. However, a funder’s risk may increase if the funder also establishes the criteria that the grantee must use to select beneficiaries.

**4. *Does your organization solicit or accept applications from the public, or does it develop candidates through an internal process?***

The process of soliciting applications inherently involves publicizing information about who is eligible. While eligibility requirements may legally include racial characteristics, publicizing them allows opponents to see what they will perceive as racial discrimination.

At the other end of the spectrum, programs may identify beneficiaries via a non-public, internal process, without a process for accepting applications from potential beneficiaries or publishing any information about qualifications, racial or otherwise. The less public information there is

---

<sup>2</sup> Throughout this Tool, “beneficiary” refers to any person or organization that receives the benefits (services, grant funds, investments, etc.) provided by the race-conscious program.

<sup>3</sup> “Particularized harm” refers to specific, identifiable instances of racial discrimination that a person or entity has experienced.

about racial qualifications, the lower the risk. The more transparent the role of race is in considering applications, the higher the risk.

Application-driven programs create the opportunity for a person or entity that believes they were excluded on the basis of race to claim that their failure to be selected constitutes impermissible discrimination. A program that has no publicized requirements or rubrics and that selects beneficiaries via an internal process is much more difficult (though not necessarily impossible) to challenge, because no one can easily demonstrate that they should have been eligible, let alone should have been selected. If your organization accepts but does not solicit applications, or accepts applications from invited candidates without publishing eligibility requirements, the risk is lower than with an open invitation with published race-conscious criteria.

**5. *Regardless of the selection process, do the demographic characteristics of the selected individual or organizational beneficiaries suggest that the selection process excluded potential beneficiaries based on race?***

In some contexts, a process that does not *expressly* focus on race nonetheless may be perceived as racially discriminatory by potential opponents if the outcome of the process is the exclusion of potential beneficiaries based on their race. For instance, if the criteria for a program state that the program is open to anyone in the state of California, but each year, the program's only beneficiaries are Black Californians, potential opponents may try to challenge the program as racially discriminatory. A program that, in fact, only benefits members of a specific race is riskier than one with racially diverse beneficiaries.

Of course, this does not mean that every program must have racially diverse beneficiaries. The point is that a program that has racially diverse beneficiaries poses less risk of attracting the interest of opponents of race-conscious activities.

**6. *Does your race-conscious program address core First Amendment rights (freedom of speech, freedom of the press, freedom of religion)?***

Charitable programs that support activities involving expressive content or association may be less appealing targets for the suit because such content is protected speech under the First Amendment. Accordingly, race-conscious programs that support the work of artists, authors, journalists, political activists, or religious leaders selected with reference to race should be significantly more difficult for opponents to challenge than race-conscious programs that support activities that are clearly not protected speech, especially where their voice is under-represented in public discourse.

## Factors Related to Your Organization and How It Conducts Its Race-Conscious Programs

### **7. *To the extent your public communications describe the degree of race-consciousness in your program, are your internal communications consistent with that description?***

Explicit references to race (including through signifiers like “BIPOC”), or to specific racial identities, in *public* communications, such as descriptions on your organization’s website or in materials distributed outside of your organization in connection with operating a race-conscious program, are more likely to attract the attention of opponents. As noted in Factor 1, the role race plays in your selection of beneficiaries can greatly affect your risk on that factor; this factor concerns how you communicate about the role of race, both externally and internally. Saying publicly that race is not a factor in your decisions could reduce your risk of attracting a suit, but if your organization’s internal communications suggest that selections are, in fact, made on the basis of race or that race plays a bigger role than your public communications indicate, those inconsistent internal communications may increase the organization’s risk of losing if sued. While internal communications, such as emails or memoranda, are less visible to the public, they are likely to be discoverable in the event of litigation. Also, internal communications can be leaked, and differences between public and private statements can be exploited for bad publicity. Opponents will cherry-pick statements that provide the most support for their position, even if the statement is an outlier. In *SFFA*, the University of North Carolina’s internal communications suggested that the school gave greater weight to race than its public materials indicated, and the Supreme Court viewed that discrepancy unfavorably.

### **8. *Do you receive government funding for your race-conscious program(s)? If so, does the government require that your activities be race-conscious?***

Government funding of specific race-conscious programs can increase or decrease risk, depending on the circumstances. If you receive government funding that has been appropriated by the legislature explicitly to remedy past discrimination on the basis of race, and the funding requires that race play a role in the conduct of your program, your risk may be reduced because opponents are more likely to attack the government program that provides the funding, rather than attacking any particular recipient of the funding. Moreover, such remedial programs may have been designed with input from agency lawyers to promote compliance with applicable laws against using race in government programs outside the remediation context.

On the other hand, if a government-funded program is challenged and either the government funder decides to change or discontinue the program, or a court rules against the program, the program runs the risk of losing funding. Furthermore, receipt of government funds triggers the application of certain laws (e.g., Title VI of the Civil Rights Act of 1964) that prohibit race-based discrimination, potentially putting a recipient of such funds who uses them in race-conscious ways at higher risk of a challenge.

The Executive Orders suggest that at least during the Trump Administration, the federal government will stop operating and funding race-conscious programs. Charities conducting

programs that rely on federal funding should plan to seek other funds or prepare for possible termination of those programs.

While private funding sources would generally present a lower risk of attracting a suit, a grantee's risk may increase if the grantee's specific private funders have been in the news for their support of race-conscious work, have high-profile board members or founders, or have come under investigation or been required to testify before Congress.

***9. Do you require beneficiaries to provide your organization with anything in return for receiving benefits, or are your benefits provided purely as gifts?***

Because one of the primary civil rights statutes underlying recent litigation (Section 1981 of the Civil Rights Act of 1866) focuses on the presence of a "contract" and may be interpreted to prohibit any use of race in contract decisions, the nature of the relationship between your organization and the beneficiaries of your race-conscious program is a potentially significant component of your organization's risk profile.

As a legal matter, a "contract" exists when there is an exchange of value between the parties, which might include money, services, goods, and/or a promise to do (or not do) something. Put another way, a contract exists when each party to the arrangement has some legally enforceable obligation to the other. For example, if, in order to receive the benefits that your program offers, prospective beneficiaries are required to complete some work or deliver some outcome, to grant your organization a license to use their image or the results of their work, or to relinquish rights or release claims they may have against your organization, the arrangement may constitute a contract.

Depending on the outcome of pending lawsuits, where a contract does or may exist (even if called something else, such as a "memorandum of understanding," "letter of intent," or "award letter"), the arrangement could be subject to Section 1981, which would preclude considering race when choosing the other party to the contract.

On the other hand, if your organization provides benefits without requiring anything in return, then the arrangement is unlikely to be subject to Section 1981's prohibition on considering race.

Organizations that provide financial benefits may be able to design their programs without legally obligating beneficiaries to provide anything in return. Requiring compliance with the law or requesting reports without requiring them, are less likely to be considered the sort of obligations that create a contract.

***10. Does your program provide benefits only to individuals selected to participate, or does it target a community?***

A program that distributes benefits only to specific individuals selected with reference to their race, is riskier than one that targets its benefits by selecting a community with reference to the

racial demographic of the community members and makes those benefits available to anyone in the community. Individuals have an attribute we call “race,” but communities, issues, or topics have no race, so choosing a community, issue, or topic based on the demographics of its members in the community or people interested in an issue or topic, is fundamentally different from discriminating between individuals using their race.

Furthermore, if individuals can benefit from a program or activity regardless of their race, that program’s risk is extremely low. Several recent suits have challenged the distribution of cash benefits to people of a specific race, but none to date has challenged the selective delivery of services into a community chosen because most of its members are people of a specific race. Examples include a program that offers services addressing the particular needs of a specific race, offers culturally competent services, or selects locations to deliver programs based on the racial composition of the surrounding community, without excluding any member of the public from participating or attending. Establishing a health clinic in a predominantly Black area in order to address proven health disparities, or siting a playground in a predominantly Latino area that lacks playgrounds, is unlikely to present an appealing target for litigation.

#### Factors Related to Courts, the Litigation Process, Legislation, or Regulation

***11. Has a lawsuit been filed in court, or is an opponent using a weaker method, like a “demand letter” directed to your organization or to a regulatory agency, to challenge a race-conscious program similar to yours?***

Although some of the recent attacks on race-conscious activities have been filed in court and may require a response to protect your organization, opponents of race-conscious activities are also using other strategies that are much more likely to generate fear and misunderstanding than they are to change the law.

For example, several recent, high-profile attacks have involved “demand letters” in which the person claiming a legal violation sends a letter with unsupported allegations about a race-conscious program to organizations or to a regulatory agency, demanding some sort of action or threatening litigation. Opponents then generate media attention, highlighting the claims.

In these instances, the primary goal is likely to garner publicity in order to scare organizations that conduct activities that the claimant opposes. Sending such a letter has no legal impact. Most of the time, such one-sided complaints do not result in any significant changes to the relevant rules, and do not affect whether a given program is permissible.

One of the Executive Orders, EO 14173, expressly requires the heads of federal agencies to “identify the most egregious and discriminatory DEI practitioners in each sector of concern” and to “identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or associations, foundations with assets of 500 million dollars or more, State and local bar and medical associations, and institutions of higher



education with endowments of over 1 billion dollars.” The EO does not define any particular DEI activity as illegal, and does not change current law, but does suggest a strategy of the Trump administration to publicly accuse some nonprofit organizations of engaging in discrimination as a result of their legal race-conscious activities. This strategy will likely encourage more-widespread targeting by private litigants across the sector.

***12. Does your organization have a presence in a place where potential opponents perceive a more favorable judiciary (regardless of where you conduct race-conscious programs)?***

Opponents of race-conscious programs can sue an organization in various state or federal courts, but courts’ authority is limited geographically, and a suit can only be maintained if the organization has some connection to the geographic area where the suit is filed.<sup>4</sup> Courts in different states and regions of the country have different judges, so a potential plaintiff (i.e., the person or entity filing a suit) may look for a defendant (i.e., your organization) in a place (referred to as a “jurisdiction”) that the plaintiff believes has judges who are more inclined to agree with the plaintiff. (This practice is sometimes referred to as “forum shopping.”)

As a general rule, an organization may be sued in any jurisdiction in which it operates or has sufficient connections (i.e., where it has employees, offices, significant programming, etc.). This factor considers whether the entity can be sued in a geographic area in which the judicial environment appears to be more open to claims against entities conducting race-conscious programs, which creates a higher risk both of being sued and of losing your case if sued. If, instead, an organization is only subject to being sued in jurisdictions whose judges may be less inclined to support anti-affirmative action legal arguments, its overall risk of litigation may be lower.

Applying this factor, however, requires care. The perceived “favorability” of any particular jurisdiction is itself a complex and fairly unpredictable matter and is also subject to change as the composition of the judiciary changes and relevant precedent evolves. There is inherent uncertainty in any prediction about how a given court will rule in a given matter, so it is important not to rely too heavily on general expectations about favorability for one side or the other in any specific case.

***13. Has litigation challenging a race-conscious program like yours resulted in a final decision on the merits?***

Lawsuits may be resolved because of procedural issues (e.g., the plaintiff does not have the legal right to sue—referred to as “standing”—or the defendant is not subject to suit in the jurisdiction in which the case was filed - see Factor 12), without ever getting to the question of whether the plaintiff’s claims are valid in light of the underlying facts and applicable law (referred to as a decision “on the merits”). This factor takes into account whether a court at

---

<sup>4</sup> It is not always easy to determine whether a given organization can be sued in a given jurisdiction. Organizations should consult with knowledgeable legal counsel for help determining whether their activities make them vulnerable to suit in specific circumstances.



any level (state or federal, lower or appellate) has ruled against an entity conducting a substantially similar program because the program itself is deemed to be illegal (referred to as a ruling “on the merits”). If an entity’s race-conscious programs were struck down by a court on the merits, and those activities are substantially similar to those your organization conducts (see Factor 14), your risk will be higher. Similarly, if an organization with a substantially similar program to yours has already prevailed on the merits and successfully defended its program, your risk will be lower.

Reaching a resolution on the merits can take many years. For example, the *SFFA* cases wound through the courts for *nine years* before the Supreme Court finally resolved them in 2023. Until a decision is final, it may not bind even the parties to the case, and it certainly does not bind anyone else.

Many cases fail for procedural or technical reasons, and many settle without reaching a resolution on the merits. If a decision is procedural or technical, or a case settles without a decision, it generally has little impact beyond the parties to the suit, while decisions based on the substantive merits of legal issues may have a broader impact. Organizations should not draw conclusions about the legality of their programs from settlements or court decisions that only involve procedural or technical issues. Moreover, courts may make preliminary determinations over the course of litigation that may *predict* the court’s view on the merits but that do not actually *decide* them.

For example, in an early stage of litigation, opponents of a program may ask the court to require the organization to stop conducting a program while the litigation is pending, by issuing a “temporary injunction.” Before issuing such an injunction, courts typically assess the likelihood that the opponents will ultimately win on the merits, and issue an injunction only when success on the merits seems likely. However, even if a court issues a temporary injunction in a case involving a program similar to yours, that is not the same as a decision from the court that the program is legally impermissible. Sometimes, the final outcome diverges from interim decisions. While such early procedural decisions may be important signals, they do not establish a rule (or “precedent”) that will necessarily govern the outcome of the case (or of similar cases).

Additional confusion can arise from media reporting on rulings at preliminary stages—whether plaintiffs have standing to bring the suit; whether the court has jurisdiction where the suit is brought; whether claimants have articulated a valid claim; whether there is a procedural or substantive basis for appealing each decision—because it’s news, but media reports may exaggerate, or even misunderstand, the legal implications of preliminary rulings.

If an organization that conducts activities substantially similar to yours has been sued, but the matter was settled out of court, or the matter was otherwise dismissed or closed without a decision on the merits, the decision will likely have less impact on your risk than a decision on the merits; you should consult with legal counsel to determine whether and/or how the result affects your organization’s risk profile.

***14. How similar is your race-conscious program to a program that has been successfully challenged in litigation?***

Even if the highest court in a relevant jurisdiction has made a final decision on the merits and struck down a race-conscious program (see Factor 15), differences in the context and facts of your program may make that decision inapplicable to your program. When the Supreme Court decided the *SFFA* cases, it only struck down certain uses of race in college admissions decisions. While this decision may eventually affect the law in other settings, its only direct and immediate effect was on college admissions. The *SFFA* decision did not change laws applicable to employment discrimination, government contracting, private grantmaking, or charitable programs. The closer your program is to a program that has been struck down on the merits, the greater the likelihood that the precedent may be extended to your program soon. Conversely, the less similar your program is to the successfully challenged program, the lower your risk.

***15. Does any final court decision striking down a race-conscious program like yours apply to your organization based on where you operate your programs?***

If your organization and its activities are substantially similar (see Factor 14) to those that have been successfully and finally challenged on the merits (see Factor 13), that court decision creates a higher risk for your organization if the litigation occurred in a jurisdiction (location) in which your organization is subject to suit, and a lower risk if the litigation occurred in a jurisdiction where your organization has no offices, personnel, activities, or other relevant connections (see Factor 12). As a general rule, the decisions of a higher court (e.g., a state appellate court or a Federal circuit court) are binding on lower courts in the *same* jurisdiction (that is, the lower courts *must follow* the decision of the higher court), but are *not* binding on lower courts in *other* jurisdictions. Decisions of a trial court do not bind higher courts, or courts in other jurisdictions. Only decisions of the U.S. Supreme Court are binding on all courts nationwide.

***16. Has a legislative or regulatory proposal been introduced or passed, or an EO issued, that might affect your program or the risks associated with conducting it?***

In addition to lawsuits, opponents of race-conscious activities may pursue legislation and/or regulation designed to prohibit, defund, chill, or otherwise undermine those activities. As with other factors, the public discussion about these strategies does not always convey accurately the actual implications of the proposal, or even its progress through the legislative or regulatory process. Before making any changes to activities or communications about them, organizations should make sure they understand exactly what a legislative or regulatory development actually means, and where it is in the process.

Proposed *legislation*, whether state or federal, usually takes some time to move through the legislative process presenting opportunities to study its provisions, evaluate its potential impact, mobilize constituents in response, and communicate with legislators about potential changes or how they should vote. Federal tax law allows charities to lobby (within limits that

often are much higher than some people think), and defines several exceptions that further expand charities' ability to influence the outcome of legislation, even if funding sources prohibit the use of funds for legislative lobbying (as defined for federal tax purposes).

Proposed *regulations* implementing legislation enacted by a legislature are issued by executive-branch agencies and go through required steps before taking effect. The issuance of proposed regulations is less visible and the process less familiar to the public than with legislation, so the opportunities to influence the outcome may be harder to identify and exploit than those affecting legislation. However, regulations define and articulate how the agency will interpret and enforce the law, and therefore can have equally significant impact on a charity's programs. Especially in light of ongoing regulatory upheaval at the federal level, organizations should pay attention to regulatory developments as well as legislative ones. Charities can engage fully with government agencies about the development of regulations that might affect them, because federal tax law imposes no limit on a charity's ability to influence regulatory processes.

If legislation or regulations that unambiguously outlaw your program or some aspect of it become final, the risks of continuing to operate as you have may become intolerable, and it may be time to pivot to your back-up plan in order to continue pursuing your mission. However, if it is unclear how final laws or regulations apply to your programs, or if there are grounds to challenge a law or regulation and you have the resources (or can find them), consider using litigation to prevent or delay potential adverse effects.

An Executive Order ("EO") issued by the President (or a Governor) is neither legislation nor regulation, and in most cases does not change federal law. Instead, most EOs provide direction from the President to executive-branch agencies regarding how to interpret and prioritize enforcement of existing law. Federal law does not impose any significant procedural requirements on the issuance of an EO other than signature by the chief executive. Operating in clear and direct contravention of a valid EO (for example, by using public funds in ways that an EO prohibits) could expose a charity to significant risk of enforcement, including (among others) the potential loss of funds or referral to a charities regulator.

### ***Further Information***

***This Tool focuses on the risk of being sued, not the risk of losing if you are sued.*** These Factors were developed in the context of recent and pending litigation that ***do not*** directly change the law for most nonprofit organizations, but that do signal the ***possibility*** of significant future shifts in the boundaries of race-conscious activity.<sup>5</sup> The Tool is designed to help organizations face the uncertainties of that future with greater confidence.

---

<sup>5</sup> This Tool does ***not*** address the risk of loss of tax exemption under Section 501(c)(3) of the Internal Revenue Code from operating race-conscious activities. Based on our analysis, we have concluded that the risk of loss of exemption as a result of engaging in race-conscious charitable activities is essentially zero at this time, and any such risk would take some time to develop.

**Risk tolerance.** Some organizations may welcome becoming the defendant in litigation to protect race-conscious efforts to end racial inequity and injustice, but others will not. Every organization has a different level of risk tolerance for different types of risk, and we encourage any organization using this Tool to conduct an internal assessment of its tolerance for suit in this area. For example, some organizations may be more concerned with reputational risks, while others may be prepared to weather challenges in the court of public opinion, but find the potential financial impact of litigation of greatest concern. Risk tolerance may be affected by how predominant race-conscious activities are relative to your entire organization; if you have only one program and that program is race-conscious, you may be less comfortable with associated risks than if your race-conscious activities are a small part of your overall operations.

Note that risk tolerance may differ across the organization's Board of Directors, its senior leadership, and its staff. Proactively surfacing and resolving any internal disparate points of view can promote confidence in a unified approach to a changing environment. There is no "right" amount of risk an organization should be willing to accept, but the Tool may help an organization realize that actual risks are lower than what they perceived, allowing an organization to do more for longer within the same risk tolerance.

**How do the factors interact? Which factors are most important?** Application of each factor is more art than science, and we have not attempted to quantify absolute probabilities associated with specific activities, nor to address how different factors may interact with each other. Generally, we see these factors as operating cumulatively, in the sense that higher risk levels on more factors will raise overall risk, but the Tool's analytical power is in disaggregating the factors. Breaking down overall risk allows organizations to choose which factors to focus on. Those choices may be driven by what an organization can most easily control, or weighing factors differently based on varying tolerance for different types of risk. The ultimate goal of using the Tool is to reduce overall risk with minimal impact on effectiveness.

The list of factors is not exhaustive, and we may add, remove, or modify factors as the legal landscape changes with future court decisions or other developments.

**Probabilities versus consequences.** Risk is the product of the *probability* of an event occurring, multiplied by the *consequence* of the event if it occurs. This Tool is designed to help organizations assess their risks of being sued. In other words, the Tool addresses probability. It does not address the consequences to the organization or to its mission of losing a case. A full discussion of potential consequences is beyond the scope of this Tool, and of course, it will differ depending on the particular race-conscious program, the nature of the legal claims made against the organization, and the clarity of the law when the suit is brought, but there are some important general points to bear in mind.

- The civil rights laws under which plaintiffs have challenged race-conscious activities are *not criminal statutes*. This means no one is going to jail, even in the unlikely event that a race-conscious program is successfully challenged in court.

- To date, there have been no monetary damages awarded in such litigation, and for now, at least, none is likely. (In some cases, plaintiffs have sought to recover attorneys' fees.) This is for a number of reasons: plaintiffs generally have sought only to stop activities by having them declared illegal; to be awarded monetary damages, individual plaintiffs would have to prove that they were personally harmed by the behavior (e.g., that they would have been awarded funds or other benefits if not for their race), which is often impossible; and where the plaintiffs' claims seek a novel application of the law to establish a new precedent, which is the nature of this type of civil rights case, an award of punitive damages would not be supported. While fighting a lawsuit may be costly and disruptive, forfeiting your endowment is not a risk in these suits.
- If your organization is sued, you always have the option to settle. Agreeing to change your race-conscious program can rapidly end the suit, minimizing legal fees. This means an organization could reasonably decide to wait to be sued before modifying or stopping its race-conscious program, even if it has no appetite or capacity for drawn-out litigation.
- A settlement ends the suit for the defendant, but only binds the parties to that suit; it does *not* change the law. Settling thus eliminates the risk of a broader bad outcome by depriving the court handling the case of the opportunity to issue an unfavorable ruling that *would* change the law. Even a favorable ruling would create the possibility of an appeal to higher courts that could eventually reach the U.S. Supreme Court with its current hostility to race consciousness, and its nationwide legal authority. Consequently, a settlement may reflect a strategic decision by the defendant to reduce its risk and costs, and also avoid a broader decision binding others, preserving the issue for another, better day.
- Organizations may be able to find philanthropic support for their defense costs. We are aware of multiple initiatives to create legal defense funds specifically for this purpose.

***Planning in uncertainty.*** As existing and new lawsuits make their way through the judicial system, the legal environment will continue to evolve. A race-conscious program that is safe today may eventually become riskier, or even illegal. Here are steps organizations can take to ensure their resilience if the legal context becomes more challenging.

1. Decide how much, and what types of risk, your organization can tolerate.
2. Assess the risk of your current race-conscious activities using this Tool.
3. Compare your risk tolerance to your assessed risk, and, if needed, make adjustments. The Tool's factors may highlight a range of options you have to reduce your risk, and in our experience, risk can often be reduced without reducing

the effectiveness of your program. Consider consulting legal counsel for specific guidance about your organization's risk profile and management options.

4. Monitor the shifting legal landscape.
5. Have a backup plan: Know exactly what your organization would change and how it would make those changes if the law evolves in a way that undermines your ability to continue to use the approach you have been using.
6. If the law changes and the risk becomes unacceptably high for your organization's risk tolerance, pivot to your Plan B.



# Diversity, Equity and Inclusion Messaging Guide

Prepared By:

Hart Research Bellwether Research and Consulting



## Introduction

Resource Impact collaborated with [Hart Research](#), [Bellwether Research and Consulting](#) and [Raben](#) to conduct research that would shed light on voter perspectives on diversity, equity, and inclusion, and help to develop more effective strategic communications around diversity, equity and inclusion efforts. Between April and August of 2024, the research team conducted online journals, led 13 focus groups, an online survey of 3,142 voters nationwide, and followed up with online discussions. This research is intended to help educate community leaders and advocates, business, and the broader public. The complete results can be found [here](#).

## Core Insights

- » **Use Full Diversity, Equity, and Inclusion Phrase:** Stop using the "DEI" abbreviation and use "Diversity, Equity, and Inclusion" instead, as it resonates more positively with people.
- » **Universally Effective Messages:** Emphasizing respect, belonging, and individual potential resonates across party lines and racial groups, making it a rare unifying message.
- » **Counter Quota Narrative Directly:** Emphasize that diversity, equity, and inclusion open doors for opportunity and support, rather than dictating hiring decisions. This message is particularly effective with older and college-educated Americans.
- » **Avoid "Social Justice" Messaging:** The notion that diversity, equity, and inclusion efforts and programs exist to ensure we correct past and existing injustices and unfair practices is one of the most polarizing messages.
- » **Reaching the Right:** Call out diversity, equity, and inclusion opponents for using government overreach to police private entities. This message works especially well with more conservative voters who philosophically oppose a heavy-handed role for government.
- » **Take Advantage of Public Distaste for Polarization:** Frame diversity, equity, and inclusion opponents as "dividers" to align with the public's fatigue with division and polarization.

## Credible Messengers

- » Participants believe messengers are credible if they have personal experience with diversity, equity and inclusion, have a track record of commitment to it, and are respected/accomplished individuals in their fields.
- » Messengers who speak from a place of deep and longstanding commitment to values, without any profit or corporate motives, resonate most strongly.
- » While politicians and business leaders can meet these criteria of credibility, they can also be polarizing and draw skepticism from some voters who question their intentions because of the perception that politicians prioritize power, business leaders prioritize profits, and both care about appearances.

# Winning Narratives

Of the eight pro-diversity, equity and inclusion messages tested, the following messages appeared in the most convincing ranks across various voter demographics.

## 1. Individual Potential

People who feel valued and respected are more engaged and more likely to contribute their best to their workplace and their colleagues. Diversity, equity and inclusion initiatives create a sense of belonging where people feel comfortable sharing their ideas, allowing everyone to reach their full potential.

---

## 2. Door Opener

Diversity, equity and inclusion doesn't determine who gets hired or who gets admitted - that is based on qualifications. It just helps make sure the door is open wide enough so that people who have traditionally had less access to opportunities get the chance to be considered and, if chosen, feel comfortable and supported once they are there.

---

## 3. American Dream

Diversity, equity, and inclusion are at the heart of the American Dream. They reflect our shared vision for a country where everyone, regardless of background, has a fair shot at success. These values embody our highest ideals and our shared commitment to liberty and justice for all.

---

## 4. Unity

The more we understand each other, the easier it is to find common ground and work together. Diversity, equity and inclusion efforts and programs help foster unity by encouraging people to dig beyond the surface and find commonalities with everyone in their organization.

---

# Counterattack Messaging

There were a number of responses tested to counter attempts that aim to scare and divide people about diversity, equity and inclusion. Of those, the following messages were ranked as the top three most convincing across various voter demographics.

Americans reliably bemoan the country's divisions and say they want to see us find a path back toward civility and unity. A message that points to our opponents as "dividers" is the most effective across all cohorts.

## 1. Divide Us

Diversity, equity and inclusion programs are about community, while the political attacks on them are about division. The people attacking benefit politically.

---

Additionally, an argument centered on who holds power was very effective among key audiences who may not see themselves as traditional power holders: Black voters, women, non-college educated voters, and Gen Z. It works well with Democrats and Independents, but not Republicans.

## 2. Losing Power

The wealthy individuals and politicians attacking diversity, equity, and inclusion programs are accustomed to holding power and don't want to lose it. A changing world threatens them, and they are doing whatever they can to shut doors rather than to share power.

---

Voters make a distinction between private and public sectors and do not think a private venture capital fund, or a private company should be told that it can or cannot engage in diversity, equity, and inclusion practices. One of the messages to counter anti-diversity, equity, and inclusion interests that was effective even among Republican voters centered on how this is the definition of overreach.

## 3. Government Overreach

The same people who say they believe in limited government now want government to tell private businesses not to have overreach is hypocrisy.

# Words That Work

## Say...

## Instead of saying...

## Because...

Diversity, equity and inclusion



DEI

There are strong positive associations with the individual words that make up the abbreviation: "diversity, equity and inclusion." Take advantage of these positives and avoid playing into the demonization of the acronym promulgated by opponents.



Diversity, equity and inclusion initiatives are about respect, belonging and individual potential.

Diversity, equity and inclusion initiatives are important to correct past and existing injustices.

A universally effective message across party lines in support of diversity, equity and inclusion emphasizes its focus on respect, belonging and individual potential. Correcting past injustices was the least effective of all messages tested.



Diversity, equity and inclusion is a "door opener." It helps people who have traditionally had less access to opportunities get the chance to be considered and, if chosen, feel comfortable and supported once they are there.

Diversity, equity and inclusion efforts are good for business.

This framing reduces diversity, equity and inclusion to only hiring based on quotas - not qualifications or hard work. It may also make both workers and consumers feel that the efforts are performative.

# Messages That Work By Target Audience

## By Age

### Gen Z:

Individual Potential  
Door Opener  
Unity

### Millennial:

Individual Potential  
American Dream  
Unity

### Gen X:

Individual Potential  
American Dream  
Door Opener

### Boomer:

Individual Potential  
Door Opener  
American Dream

## By Gender & Education

### Men:

Individual Potential  
Door Opener  
American Dream

### Women:

Individual Potential  
American Dream  
Door Opener

### Non-College:

Individual Potential  
American Dream  
Door Opener

### College:

Individual Potential  
Door Opener  
American Dream

## By Race

### White Voters:

Individual Potential  
American Dream  
Door Opener

### Black Voters:

Individual Potential  
American Dream  
Social Justice

### Latino Voters :

Individual Potential  
Unity  
Door Opener

### AAPI Voters:

Individual Potential  
Door Opener  
American Dream

## By Party

**GOP, IND and DEM** voters ranked the following messages in the same way.

Individual Potential  
Door Opener  
American Dream





## **FAQs on Responding to Recent DEI Executive Orders**

### **August 14, 2025**

The Trump Administration has issued several executive orders aimed at curtailing Diversity, Equity, and Inclusion (DEI) policies and programs. These orders have implications for organizations and employers that engage in DEI initiatives, regardless of whether they receive federal funding. As a nonprofit, it is important to understand how these orders may impact your organization. This publication is intended for California nonprofits and provides answers to common questions about the DEI Executive Orders.

#### **1. What DEI Executive Orders impacting nonprofits have been issued by the new administration?**

##### *EO 14151: “Ending Radical and Wasteful Government DEI Programs and Preferencing”*

Issued January 20, 2025, this Order seeks to end DEI programs and offices across the federal government. It requires that all federal government DEIA-related mandates, policies, programs, and preferences be eliminated. Additionally, it requires federal government agencies, departments, and contracts to reward “initiative, skills, performance, and hard work” in hiring. Federal agencies have also been instructed to discontinue any federal DEI activities in operation prior to November 4, 2024.

##### *EO 14170: “Reforming the Federal Hiring Process and Restoring Merit to Government Service”*

Issued January 20, 2025, this Order seeks to end DEI-related hiring practices in the federal government. It mandates the development of a Federal Hiring Plan that bases recruitment for federal positions on a job candidate’s commitment to American ideals and the Constitution. This Plan prevents the hiring of individuals based on their race, sex, or religion, reduces government time spent on hiring, utilizes modern recruitment technology to support recruitment and selection, and aims to improve communication with candidates by providing more clarity on application status and hiring decisions.

##### *EO 14173: “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”*

Issued January 21, 2025, this Order seeks to eliminate illegal preferences and discrimination. It orders all executive departments and agencies to terminate discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements. It rescinds affirmative action requirements for federal contractors. It requires federal contractors to certify that they do not operate any DEI programs that violate federal anti-discrimination laws and acknowledge that complying with these laws is material to the government’s payment decisions for purposes of the False Claims

Act. It also requires federal agencies to create strategic enforcement plans targeting illegal DEI programs in the private sector.

*EO 14148: "Initial Rescissions of Harmful Executive Orders and Actions"*

Issued January 20, 2025, this Order rescinds 78 executive orders from the Biden administration, specifically those focused on promoting DEI and advancing equity, directing agencies to end the implementation of "unlawful and radical DEI ideology." Additionally, the Order directs federal agencies to eliminate DEI-related offices, positions, and initiatives, and prohibits the consideration of DEI factors in federal employment practices, emphasizing "merit, hard work, and equality" instead. Agencies are instructed to remove DEI-related language within contracting, grants, and financial assistance procedures. Although it does not directly mandate change by private corporations, the Order directs the Attorney General to investigate and report potential illegal DEI practices in the private sector.

*EO 14149: Restoring Freedom of Speech and Ending Federal Censorship*

Issued January 20, 2025, this Order limits the federal government's ability to require or promote certain DEI-related training or language. It prohibits compelled speech in employee training and communications regarding issues of race, gender, or systemic bias, and addresses concerns around censorship and violations of free speech.

*EO 14168: "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"*

Issued January 21, 2025, this Order addresses what it calls "gender ideology" and states that it will "defend women's rights and protect freedom of conscience by using clear and accurate language and policies that recognize women are biologically female, and men are biologically male." Federal agencies have been directed to remove language about LGBTQ+ equity and stop working with LGBTQ+ people and communities. Agencies have also been directed to change any forms that require an individual's sex to list only 'male' or 'female' and are prohibited from requesting an individual's gender identity. This EO prohibits the use of federal funds to promote gender ideology, requiring contractors to certify compliance.

*EO 14210: Implementing the President's "Department of Government Efficiency" Workforce Optimization*

Issued February 11, 2025, this Order seeks to streamline the federal workforce to enhance efficiency and productivity. It requires reorganization plans and potentially large-scale reductions in force, with a focus on eliminating waste and redundancy. DEI initiatives fall under the Order's definition of non-statutory functions, which makes them particularly vulnerable to being cut.

*EO 14218: Ending Taxpayer Subsidization of Open Borders*

Issued February 19, 2025, this Order requires federal agencies to identify programs that allow undocumented immigrants to access public benefits, enhance eligibility verification systems to exclude unauthorized immigrants, and refer improper benefit use to the Departments of

Justice and Homeland Security. The Order also requires department or agency leaders to ensure that federal payments to states and localities do not encourage the subsidization or promotion of undocumented migration or support for “sanctuary city” policies.

*EO 14224: Designating English as the Official Language of The United States*

Issued March 1, 2025, this Order designates English as the official language of the United States. It also rescinds Executive Order 13166, which had previously mandated language access services for individuals with limited English proficiency in federal agencies and programs. Agency heads are not required to remove or stop the production of documents, products, or services prepared in languages other than English.

*EO 14281: Restoring Equality of Opportunity and Meritocracy*

Issued April 23, 2025, this Order seeks to shift federal agencies away from investigating disparate impact within discrimination cases. Disparate impact theory applies where facially neutral policies or practices harm certain groups. This order is part of the broader effort to dismantle DEI initiatives.

## **2. Legal Updates Related to the Executive Orders**

On February 3, 2025, a [lawsuit](#) was filed in federal district court seeking to halt EO 14151 and EO 14173 as unconstitutional for exceeding the President’s authority and violating the First and Fifth Amendments of the Constitution. On February 21, 2025, the court issued a nationwide [preliminary injunction](#) blocking enforcement of several key provisions of the DEI Executive Orders. However, on March 14, 2025, a three-judge panel of the [Fourth Circuit](#) [unanimously granted the government's emergency request to stay that injunction](#) pending appeal, meaning enforcement of the EOs is no longer blocked while litigation of the case continues.

On April 14, 2025, a Northern District of Illinois court [issued a preliminary injunction](#) that restricts only the Department of Labor from requiring any federal contractor or grantee to make certifications related to their DEI programs under the Executive Orders. The preliminary injunction also prohibits the Department of Labor from terminating specific federal grants to the named Plaintiff.

On May 2, 2025, a federal district court in Washington, D.C. [declined to issue a preliminary injunction](#) blocking provisions of EO 14151, EO 14168, and EO 14173. Unlike the two district courts that previously addressed similar arguments (see above), the Court rejected all the Plaintiffs’ claims - some on standing grounds and others on the likelihood of success on the merits.

Also on May 2, 2025, [a lawsuit was filed](#) in federal district court by King County, Washington, along with several other cities and counties, challenging new federal agency rules that imposed conditions on billions of dollars in federal grants. The lawsuit argued that the conditions, related to immigration enforcement, gender identity policies, and the removal of DEI language, were unconstitutional and exceeded executive authority. On June 3, 2025, the Court

issued a preliminary injunction blocking HUD and DOT from enforcing unlawful conditions placed on Continuum of Care and DOT grants for Plaintiffs in the case.

On June 27, 2025, in the Trump v. Casa decision, [the Supreme Court held](#) that federal courts lack statutory authority under the Judiciary Act of 1789 to block executive policies as they relate to nonparties. Instead, courts may only grant relief to the parties involved in a case. This decision has implications for challenging presidential actions. A court ruling in one case will not necessarily automatically protect others, even if a policy is found unlawful. Organizations seeking to protect their rights or halt the enforcement of executive policies may need to initiate separate lawsuits rather than relying on the successes of others. Alternatively, those seeking uniform protection against federal policies may need to consider filing class action lawsuits.

It is important for nonprofit organizations to stay informed about legal developments related to funding, certification requirements, and the courts' interpretation of longstanding civil rights laws. The organization may consider appointing a board member to track developments and seek counsel and advice from a qualified attorney to ensure that its programs are compliant.

### **3. Are DEI initiatives and programs illegal?**

DEI programs are not inherently illegal, and efforts to promote DEI do not automatically violate federal civil rights law. Effective DEI practices that support equal opportunity, combat biases, and promote inclusion are lawful and help ensure legal compliance. See Multi-state Guidance Concerning Diversity, Equity, Inclusion and Accessibility (DEIA) Employment Initiatives [here](#) and Attorney General Bonta's Guidance for Businesses on DEIA initiatives in the Workplace [here](#). The DEI Executive Orders do not change long-standing federal and state civil rights laws, and nonprofits may continue to express their commitment to DEI as this speech is protected by the First Amendment. However, as further discussed below, legal issues may arise depending on how a nonprofit's DEI initiatives are carried out.

The United States Department of Justice released guidance on July 29, 2025 for recipients of federal funding regarding unlawful discrimination. While this [guidance](#) indicates how the federal administration may interpret and apply existing civil rights laws and carry out its enforcement actions, it on its own **does not and cannot change the law**. For more information on how to assess the guidance and understand the facts about what organizations can do to ensure equal opportunity, see this [fact sheet](#) from the Lawyers' Committee for Civil Rights Under Law and partner organizations.

### **4. What do the DEI Executive Orders mean for nonprofit employers?**

Even before the recent DEI Executive Orders were issued, California employers were required to comply with [state](#) and [federal](#) anti-discrimination laws. Under the new administration, federal agencies may be more likely to scrutinize private sector employment practices and policies. Because DEI is not inherently illegal, and the Executive Orders do not explain what renders a DEI program illegal, nonprofits should focus on the content and implementation of their employment policies. Ensure that you are hiring without race or gender-based preferences or quotas and that your job opportunities are open to all. You are

not obligated to eliminate all diversity, equity, and inclusion considerations from your employment practices as long as DEI is not used to advantage one group over another.

Do:

- Focus on “individual merit, aptitude, hard work, and determination” in hiring decisions
- Track applicants’ demographic information to understand the effect of your organization’s hiring practices and lessen disparities
- Adopt programs and policies that are open to everyone
- Prominently display your organization’s commitment to equal opportunity hiring practices on your website, job postings, and other public-facing recruitment materials
- Recruit widely to attract applicants from various backgrounds
- Create standardized, objective criteria to assess applicants
- Provide equal access to professional development, training, mentorship, and other aspects of employment to everyone you hire

Don’t:

- Include any race or gender-based hiring quotas, use race-based classifications or hiring criteria, or reserve positions for a specific racial group or gender
- Treat an employee or prospective employee differently based on race or gender
- Have policies that negatively impact one racial group or gender relative to another

## **5. Can a nonprofit’s federal tax-exempt status be revoked for advancing DEI?**

The new administration’s Executive Orders have not changed the law around the revocation of tax exemption for nonprofits. Federal tax exemption can be revoked automatically for failure to file tax returns three years in a row.<sup>i</sup> Otherwise, revocation requires substantial investigation and due process, which the Executive Branch cannot initiate unilaterally.

The process of revocation begins with the IRS undergoing an “examination,” also known as an audit.<sup>ii</sup> Depending on the size and complexity of the organization, this process can take months to years.<sup>iii</sup> If the IRS identifies a compliance issue (e.g., electioneering, private inurement, etc.), revocation is not the immediate outcome. Instead, the IRS may issue advisories or require corrective actions (e.g., back taxes) to allow the organization to maintain its exempt status.<sup>iv</sup> If revocation is ultimately pursued, the organization has the right to appeal, and it retains its exemption throughout the appeal process.<sup>v</sup>

IRS examinations cannot be requested by the executive branch, including by the President or their staff.<sup>vi</sup> In fact, the direct or indirect request by an executive official to the IRS for an audit of a specific organization is a criminal offense punishable by fine and/or imprisonment unless a narrow statutory exception applies.<sup>vii</sup>

Recent concerns around revocation generally focus on two rare grounds: (i) violation of a fundamental public policy and (ii) furthering a substantial illegal purpose. We will briefly touch on each of these below:<sup>viii</sup>

- (i) The first ground stems from a 1983 Supreme Court decision where two private schools were denied exemption because their discriminatory policies – namely, a prohibition on interracial dating and racially discriminatory admissions – violated

fundamental public policy.<sup>ix</sup> Achieving a shift in what constitutes fundamental public policy requires sustained judicial and executive alignment across administrations.<sup>x</sup> To date, the IRS has not signaled a shift that would jeopardize the exempt status of existing nonprofit organizations.<sup>xi</sup>

- (ii) The second ground concerns nonprofits that engage in substantial illegal activity.<sup>xii</sup> While Executive Order 14173 suggests that DEI can be illegal, this vague proclamation does not alter existing law around discrimination. (See FAQs 1 and 2). Moreover, the IRS continues to recognize purposes such as reducing neighborhood tensions, protecting human and civil rights, and eliminating prejudice and discrimination as charitable.<sup>xiii</sup>

Even if an organization loses its exemption, it can still function as a federally taxable corporation. The loss of federal tax-exempt status may also affect an organization's exemption at the state level. In California, if an organization obtained state tax exemption by filing Form 3500A, it will automatically lose its state exemption when its federal exemption is revoked. However, the organization may reapply for state exemption by submitting Form 3500. If the organization originally filed Form 3500 to obtain state exemption, the loss of federal exemption does not automatically revoke its California tax-exempt status.<sup>xiv</sup> Finally, an organization stripped of its exemption could choose to dissolve and transfer its assets to a similar nonprofit organization.<sup>xv</sup>

## 6. What is the False Claims Act (named in EO 14173), and how might it apply to my nonprofit?

Executive Order 14173 includes provisions requiring federal contractors and grant recipients to certify that they are not operating any DEI programs that violate federal anti-discrimination laws. The False Claims Act (FCA)<sup>xvi</sup> is a federal law that prohibits individuals and entities from defrauding the government by submitting false claims for payment. A memo from the Department of Justice from May 2025 indicates they intend to use the FCA to target federal contractors or fund recipients who “certify compliance with civil rights laws while knowingly engaging in racist preferences, mandates, policies, programs, and activities, including through diversity, equity, and inclusion (DEI) programs that assign benefits or burdens on race, ethnicity, or national origin.”<sup>xvii</sup>

### Key aspects of the FCA:

- **Prohibited Conduct:** The FCA prohibits knowingly submitting, or causing to be submitted, false claims for payment or approval to the government.<sup>xviii</sup> This includes knowingly making or using a false record or statement that is material to a false claim or improperly avoiding an obligation to pay the government.
- **"Knowing" Standard:** "Knowing" in the FCA does not require specific intent to defraud. It includes actual knowledge, deliberate ignorance of the truth or falsity, or reckless disregard of the truth or falsity.<sup>xix</sup>
  - In 2023, the Supreme Court held that whether an entity “knowingly” submitted a false claim to the government in violation of the FCA depends on the defendant's subjective knowledge or belief at the time of submitting the claim, not what an objectively reasonable person might have known or believed.<sup>xx</sup> This decision is significant for FCA cases, particularly those with unclear regulations, as it shifts the focus to the defendant's actual mindset

when submitting claims and no longer permits solely demonstrating an objective, reasonable interpretation of the law.

- The Supreme Court held that the knowledge test can be satisfied if it can be shown that the defendant:
  - Actually knew that its claims to the government were not accurate when they were made;
  - Was aware of a substantial risk that its claims were not accurate and intentionally avoided learning whether its claims were accurate;
  - Was aware of a substantial and unjustifiable risk that its claims were false, but submitted the claims for payment anyway.<sup>xxi</sup>
- **Penalties:** Violators can be liable for three times the government's damages (treble damages) plus significant civil penalties per false claim.<sup>xxii</sup>
- **Qui Tam Provisions:** A crucial feature of the FCA is its qui tam provision, which allows private citizens (known as whistleblowers or relators) with knowledge of fraud against the government to file a lawsuit on the government's behalf.<sup>xxiii</sup> If the suit is successful, the whistleblower may receive a portion of the government's recovery<sup>xxiv</sup>, which may incentivize individuals to report organizational conduct.

An FCA lawsuit could be triggered by a whistleblower claim, potentially resulting in substantial financial penalties. EO 14173 also includes provisions related to the Department of Justice and its use of the FCA to target nonprofit organizations. The Order explicitly states that compliance with federal anti-discrimination laws is "material to the government's payment decisions" for purposes of the False Claims Act and directs the U.S. Attorney General to create a strategic enforcement plan to target and "end illegal discrimination and preferences, including DEI."<sup>xxv</sup>

#### How Contractors Can Protect Themselves

- Track the Executive Orders and understand how administrative guidance affects funding conditions.
- Communicate with federal agencies to clarify certification requirements before submitting any statements.
- Conduct an internal review of DEI policies, training materials, and programs to ensure compliance with federal anti-discrimination laws.
- Avoid submitting certifications until clear agency guidance is available.
- Limit who within the organization has the authority to sign certifications to reduce the risk of errors.
- Provide training to key employees on the risks and requirements of the executive order.
- Provide periodic training on the FCA and anti-fraud policies.
- Appoint a compliance officer at a senior management level.
- Foster an atmosphere of anti-retaliation, transparency, and compliance.
- Keep detailed records of compliance efforts, policy updates, and legal reviews to support future defenses.
- Avoid pre-compliance or overcorrecting. Consult with legal counsel to navigate the changing legal landscape.
- Urgently seek legal counsel in the case of an FCA violation.



## 7. What can nonprofits do if their federal funding is terminated?

Generally, the federal government has broad discretion to cancel federal grants and contracts. However, the specifics of cancellation depend on an organization's individual grant or contract. Each federal agency has its own rules and procedures, and different grants and contracts have specific terms and conditions. Additionally, various statutory and regulatory requirements apply to different federal programs.

The manner in which funding is terminated, how Congress allocated those funds, and the outcomes of relevant court cases can also influence the termination and appeals process. Nonprofits that have received notice that their organization's grant or contract with the Federal Government has been terminated can take the following steps:

- Review the grant or contract agreement. This document outlines the specific terms and conditions, including the grounds for termination, notice requirements, procedures for appeal or dispute resolution, and any agency-specific rules.
- Understand allowable closeout costs. Regulations generally permit the recovery of allowable costs properly incurred before the termination date, as well as costs that would not have occurred if the grant had not been terminated (e.g., certain administrative, accounting, and legal costs associated with closing out the award).
- Communicate with the relevant federal agency. Establish and maintain open communication with the contracting or grant officer. Seek clarity on the reasons for termination and explore any potential remedies or adjustments. Document all communications.
- Preserve rights and documentation. Maintain meticulous records of all communications with the agency, financial transactions, and any harm suffered as a result of the termination.

Nonprofits facing federal funding terminations should first understand the administrative remedies and appeal processes available within the agency. If those avenues are insufficient, legal action may be pursued, depending on the specific nature of the funding agreement, the reasons for termination, and the type of relief sought (e.g., monetary damages vs. injunction). Consulting with experienced legal counsel in federal grants and administrative law is crucial.

Legal grounds for appealing or challenging funding termination are typically based on the following:

### Breach of Contract (or Grant Agreement)

- While grants are not traditional contracts, courts may apply some contract principles to them. If the termination violates the terms of the award or applicable regulations, a nonprofit may make a breach of contract or an implied covenant of good faith and fair dealing claim.
- Claims for Breach of Contract often fall under the Tucker Act.
  - The Tucker Act grants the U.S. Court of Federal Claims (CFC) jurisdiction over claims against the United States "founded... upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort." If a nonprofit is primarily seeking monetary

damages for a breach of a grant or contract agreement, the CFC is generally the appropriate venue.<sup>xxvi</sup>

- In determining whether a grant or cooperative agreement constitutes a contract for Tucker Act purposes, courts examine the "essence of the action" and the source of the rights underlying the claim. If the claim is truly about the government's alleged breach of a funding obligation, it may fall under the Tucker Act.<sup>xxvii</sup>
- The CFC primarily awards money damages. It generally lacks the authority to grant equitable relief, such as injunctions (orders to reinstate funding or stop a termination). This can be a significant limitation for nonprofits that primarily want their funding restored or the termination reversed.
- For claims not directly based on a contract, a plaintiff must identify a substantive source of law (e.g., a statute or constitutional provision) that "can fairly be interpreted as mandating compensation by the Federal Government for the damage sustained."<sup>xxviii</sup>

#### Administrative Procedure Act (APA) Violations

- The Administrative Procedures Act (APA) governs how federal agencies develop and issue regulations and make decisions. Nonprofits can challenge agency actions, including funding terminations, if they are deemed "arbitrary and capricious," an abuse of discretion, or otherwise not in accordance with law.<sup>xxix</sup>
  - Claims for APA appeal involve arguing that the agency failed to provide a reasoned explanation for the termination, acted outside its authority, or failed to follow proper procedures.<sup>xxx</sup>
  - The APA allows for judicial review of agency actions. Unlike the Tucker Act, the APA is typically litigated in U.S. District Courts, which have the authority to issue equitable relief, such as preliminary injunctions, which can temporarily halt a termination and potentially restore funding.
  - Recent court cases have seen nonprofits challenging terminations under the APA, with some success, especially when the agency's justification for termination lacks evidence or deviates from required procedures. However, the ability to obtain nationwide injunctions under the APA in federal funding cases has become more challenging and uncertain due to a recent Supreme Court ruling.<sup>xxxi</sup>

#### Constitutional Violations

- In some cases, if the termination implicates constitutional rights (e.g., due process or equal protection), a nonprofit might have a claim.

### **8. How does H.R.1, the “One Big Beautiful Bill Act”, impact nonprofits?**

H.R.1 does a lot to disincentivize charitable giving, such as capping itemized deductions for high-income taxpayers and setting 0.5% and 1% floors for individual itemized charitable deductions and corporate charitable contributions, respectively. In addition, the bill levies a hefty tax on colleges and universities that rely on private philanthropy through a “student-adjusted endowment”. The more investment assets a school has per student, the higher the tax rate applied (ranging from 1.4% to 8%). However, H.R.1 does include one positive

incentive for charitable giving by permanently allowing taxpayers who do not itemize their deductions to deduct \$1,000 if they are single filers and \$2,000 if they are joint filers.

The bill also directly impacts many of the communities that nonprofits serve by slashing access to Medicaid and SNAP, increasing the immigration enforcement budget 10-fold, and phasing out vital climate initiatives. As a result, the work of nonprofits will be more important than ever.

## 9. What steps should nonprofits take in response to the DEI Executive Orders?

At this time, it is unclear how the federal government will enforce federal civil rights laws and whether the DEI Executive Orders will ultimately be deemed lawful. We may also see an increase in lawsuits filed by private individuals against nonprofits based on alleged failure to comply with state and federal civil rights laws. **Therefore, we recommend conducting a risk assessment of your organization through a legal audit to ensure your nonprofit is in compliance with 1) state and federal tax-exemption laws; 2) state and federal civil rights laws; and 3) any other relevant laws.** We recommend you seek legal counsel to help with your audit and discuss how the Executive Orders may impact your organization with your board. We recommend that you conduct a risk assessment, determine your organization's legal risk tolerance, and adjust policies and practices accordingly.

### a) Ensure compliance with state and federal tax-exempt laws

Organizational compliance is more critical now than ever. Use the below non-exclusive checklist to confirm that your nonprofit is in good standing and ensure that your organization is following laws to maintain its tax-exempt status as a 501(c)(3). Key forms, additional information, and considerations may be found [here](#) and [here](#).

- **Adhere to your charitable purpose and operate consistently with your governing documents.** All of your organization's activities should be consistent with its exempt purpose as stated in the organization's governing documents and as described in the organization's application for exemption. If significant changes to your activities are made, update your governing documents and notify the IRS and other relevant government agencies. Information about notification requirements may be found [here](#).
- **Avoid private inurement.** Your organization may not be organized or operated for the substantial benefit of private interests. Directors, officers, and key employees should not receive special benefits, unreasonable or excessive compensation, or property transfers for less than market value.
- **Do not participate in electioneering or substantial lobbying.** A 501(c)(3) cannot engage in political campaigns on behalf of (or in opposition to) any candidate for elected public office. While some lobbying is permitted, any work to influence legislation should be an insubstantial part of your activities. See this [fact sheet](#) on making the 501(h) election to enable your nonprofit to engage in more lobbying. If your nonprofit engages in permissible levels of lobbying, ensure compliance with local and state lobbying reporting requirements.

- **Comply with contractual requirements.** Review all relevant contracts to ensure compliance with contractual obligations and implement policies regarding entering into new contracts.
- **Ensure board members fulfil their fiduciary duties.** Board members should act in the organization's best interests, fulfilling their legal duties of care and loyalty to the organization.
- **Communicate accurately to reduce legal and reputational risks.** Careful communications can help protect your organization from defamation and fraudulent misrepresentation. Steps should also be taken to avoid copyright infringement as described [here](#).
- **Maintain and follow internal policies.** Draft and/or review your policies for conflicts of interest, whistleblowers, executive compensation, and record retention. For sample policies, visit Public Counsel's nonprofit publications [here](#). It is particularly important to manage potential conflicts of interest.
- **Complete timely filings with regulating entities.** In addition to federal tax returns, known as Form 990s, all California nonprofits must file 1) an annual registration renewal fee report; 2) an exempt organization state annual information return; and 3) a Statement of Information every two years. Additional information can be found [here](#) and [here](#).
- **Follow state and federal laws related to fundraising.** This includes honoring any restrictions that donors place on contributions and verifying that income generated advances the organization's mission. Income that does not advance the mission cannot be substantial, may be considered "unrelated business income," and may therefore be subject to corporate income tax. Additional information can be found [here](#) and [here](#).
- **Maintain adequate insurance.** See Public Counsel's Risk Management & Insurance Guide [here](#).

## **b) Ensure compliance with state and federal civil rights laws**

All of your organization's programs, policies, and practices should comply with relevant state and federal civil rights laws such as the Fair Employment & Housing Act, the Unruh Civil Rights Act, Title VI, Title VII, and Title IX of the Civil Rights Act of 1964, and Section 1981 of the Civil Rights Act of 1866.

### ***i) Analyze your website, public-facing communications, programs, services, and organizational governance policies and use an open, inclusive, and multi-faceted selection process for any contracts, grants, programs, and services to reduce legal risk.***

It is lawful for nonprofits to advance DEI and discuss the effects of discrimination and the importance of equity on their websites and public-facing materials. To reduce legal risk, however, eligibility for programs and services should not be based solely on race, gender, or another protected category. If necessary, modify any race-based program or service eligibility criteria in a way that still advances your goals and mission. Use criteria that are protected category neutral to the extent possible (i.e., socio-economic status, educational level, zip code) and encourage applicants to share their lived experience with race/gender/identity and discrimination as part of your holistic review process. Any documentation for initiatives should detail their design, specific purposes, and outcomes.

If your nonprofit makes changes to any policies or programming, develop a plan for communicating those modifications to clients and staff, as well as a strategy to address any public or media reactions.

**ii) Review your organization's non-discrimination statement.** Non-discrimination statements should be prominent on your website and all other relevant communications. Through such statements, communicate that your organization is committed to equal opportunity, complies with all applicable civil rights laws, and does not discriminate based on race, color, religion, gender, national origin, disability, sexual orientation, gender identity, etc. Emphasize your nonprofit's exclusive commitment to lawful DEI initiatives and inclusivity for all.

**iii) Indicate that your organization is an equal opportunity employer.** Affirm that its focus in hiring:

- is based on skillset and capabilities and does not incorporate quotas or preferences;
- seeks and values employees for their expertise, skills, and abilities; and
- complies with state and federal anti-discrimination laws

### **c) Ensure compliance with other relevant laws**

Ensure compliance with all relevant laws, including, but not limited to, employment, intellectual property, privacy, data protection, licensing, zoning, and contractual obligations.

○ **State and federal employment laws.** For more information, visit these resources:

- [https://edd.ca.gov/siteassets/files/pdf\\_pub\\_ctr/de44.pdf](https://edd.ca.gov/siteassets/files/pdf_pub_ctr/de44.pdf)
- <https://www.dir.ca.gov/faqlist.html>
- <https://www.dol.gov/general/aboutdol/majorlaws>
- See also Public Counsel's relevant publications: [AB 5: Proper Classification of Employee versus Independent Contractor](#) and [Workplace Authorization FAQ](#).

○ **Intellectual property laws.** Ensure compliance with intellectual property laws, and take appropriate steps to avoid trademark and copyright infringement. See Public Counsel's relevant publications:

- <https://publiccounsel.org/publications/copyrights-trademarks-2015/>
- <https://publiccounsel.org/publications/trademark-basics-for-nonprofits-2015-2/>
- <https://publiccounsel.org/publications/navigating-copyright-infringement-for-nonprofits/>
- <https://publiccounsel.org/publications/intellectual-property-licensing-basics-for-nonprofits-2016/>
- <https://publiccounsel.org/publications/work-for-hire-basics-for-nonprofits-2016/>

○ **Privacy and data protection laws.** For more information, visit these resources:

- <https://calawyers.org/section/privacy-law/privacy-law-guide/>
- <https://privacy.ca.gov/california-privacy-rights/your-right-to-privacy/>

- <https://laborcenter.berkeley.edu/overview-of-new-rights-for-workers-under-the-california-consumer-privacy-act/>
- <https://oag.ca.gov/privacy/ccpa>
- <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

## 10. Other Helpful Resources

- [Alliance for Justice: Advocacy Check-Up: Nonprofit Self Assessment](#)
- [Council of Nonprofits: General FAQs on Executive Actions Impacting Nonprofits](#)
- [Council of Nonprofits: Impacts of the Recent Executive Orders on Nonprofits](#)
- [Nonprofit Quarterly “Legal Compliance in an Unfriendly Political Environment”](#)
- [NEO Law Group: Nonprofit Law Blog, Anti-Discrimination Laws – Section 1981](#)
- [Public Counsel Nonprofit Publications](#)
- [Venable: When the Government Comes Knocking on Your Nonprofit’s Door](#)
- [Lawyers For Good Government Fund Protection Clinic](#)
- [Gibson Dunn False Claims Act Updates](#)
- [United for Freedoms Legal Defense Fund](#)

**This document provides general guidance only and should not be construed as legal advice. The information in this document may change over time. If your nonprofit needs legal assistance, or if you have further questions about these topics, please contact Public Counsel’s Community Development Project at (213) 385-2977, ext. 200 or apply for our services online at: <https://publiccounsel.org/programs/community-development-project/get-help/>. The Community Development Project provides free legal assistance to qualifying low-income entrepreneurs and qualifying nonprofit organizations that share our mission of serving low-income communities and addressing issues of poverty within Los Angeles County.**

---

<sup>i</sup> 26 U.S. Code § 6033(j).

<sup>ii</sup> <https://www.irs.gov/charities-non-profits/exempt-organizations-audit-process>. Examinations can be conducted by letter or by field visits and involve a review of a nonprofit’s compliance with federal tax law.

<sup>iii</sup> <https://www.venable.com/insights/events/2025/05/irs-exams-and-revocation-of-tax-exempt-status>.

<sup>iv</sup> <https://www.irs.gov/charities-non-profits/other-non-profits/exempt-organizations-potential-examination-consequences>.

<sup>v</sup> <https://www.irs.gov/pub/irs-pdf/p892.pdf>. Small donations will continue to be deductible during this period, but those above \$1,000 will not. 26 U.S. Code § 7428(c).

<sup>vi</sup> 26 U.S. Code § 7217(a); (e)(1).

<sup>vii</sup> 26 U.S. Code § 7217(d). There are three exceptions to the ban on executive examination requests: (i) taxpayer-initiated requests forwarded to the IRS (e.g., vetting a Presidential nominee); (ii) disclosure requests under §6103 (e.g., assisting with a criminal investigation following a court order); and (iii) requests by the Treasury Secretary due to a tax policy change.

<sup>viii</sup> Note that there have also been concerns raised around revocation for terrorism. Section 501(p) of the Internal Revenue Code permits revocation for nonprofit organizations deemed a terrorist organization based on non-tax law. There have been efforts to increase the ability of the Administration to deem nonprofits as materially supporting terrorism (e.g., H.R. 6408 or earlier versions of the "One Big Beautiful Bill Act"), but these pieces of legislation have not passed, meaning only designated terrorist organizations risk revocation.

<sup>ix</sup> *Bob Jones v. US*, 461 U.S. 580-81 (1983).

<sup>x</sup> *Bob Jones v. US*, 461 U.S. 593-98 (1983).

---

<sup>xi</sup> P.L.R. 202515017 (Post-Trump Administration ruling determining that a nonprofit with the goal of "creating diversity in the arts and museum communities" was permissible). A private letter ruling (P.L.R.) is a written decision by the IRS in response to a taxpayer request for guidance. Per IRC § 6110(k)(3), a P.L.R. may not be relied upon as precedent by other taxpayers, but it does shed light on what the IRS may do in a similar situation.

<https://americanallianceforequalrights.org/american-alliance-for-equal-rights-files-request-to-irs-to-examine-racial-practices-at-three-tax-exempt-foundations-gates-foundation-lagrange-foundation-and-creative-capital-foundation/>.

(American Alliance for Equal Rights (AAER) filed a complaint with the IRS asserting certain nonprofits are violating the public policy doctrine, but the complaint is only a request for an investigation, something that the IRS has not indicated it will act on.)

<sup>xii</sup> <https://www.irs.gov/pub/irs-tege/eotopic194.pdf>; Rev. Rul. 75-384 (finding an organization formed to promote world peace does not qualify exemption because it planned and sponsored protest demonstrations urging members to commit acts of civil disobedience). Unlike a private letter ruling, a revenue ruling may be relied upon as precedent.

<sup>xiii</sup> <https://www.irs.gov/charities-non-profits/charitable-purposes#:~:text=The%20exempt%20purposes%20set%20forth,community%20deterioration%20and%20juvenile%20delinquency..>

<sup>xiv</sup> <https://www.ftb.ca.gov/file/business/types/charities-nonprofits/index.html>.

<sup>xv</sup> For more information, see <https://publiccounsel.org/publications/dissolution-of-a-california-nonprofit-corporation-2017/>.

<sup>xvi</sup> 31 U.S.C. §§ 3729 et seq.

<sup>xvii</sup> <https://www.justice.gov/dag/media/1400826/dl>, May 19, 2025 DOJ Memo announcing formation of Civil Rights Fraud Initiative

<sup>xviii</sup> The FCA does not define “falsity,” but courts have established two types of falsity that can lead to liability for claims or certifications under the FCA: factual falsity (materially false information presented as true) and legal falsity (involving information that may mislead the government about compliance with a contract, statute, or regulation, or omits relevant information). Because falsity attaches at the time of certification, subsequent claims submitted to the government under the resulting contract may also result in liability because the contract itself was falsely induced.

<https://governmentcontracts.foxrothschild.com/2024/10/articles/false-claims-act/fca-101-falsity/>.

<sup>xix</sup> 31 U.S.C. § 3729(b).

<sup>xx</sup> See *United States ex rel. Schutte v. SuperValu Inc.*, 598 U.S. 739, 749 (2023).

<sup>xxi</sup> *Id.* at 749-750. The Court did not provide guidance to explain what risks may be considered “substantial and unjustifiable,” leaving it to future FCA decisions to define those terms in this context.

<sup>xxii</sup> 31 U.S.C. § 3729(a). Although the FCA allows the government to recover interest, most courts have found that treble damages are sufficient to make the government whole and, therefore, pre-judgment interest has not generally been awarded. See, e.g., *United States v. Foster Wheeler Corp.*, 447 F.2d 100, 101-102 (2d Cir. 1971)

<sup>xxiii</sup> 31 U.S.C. § 3730(b)(1).

<sup>xxiv</sup> 31 U.S.C. § 3730(d)(1).

<sup>xxv</sup> <https://www.mofo.com/resources/insights/250521-doj-creates-initiative-aggressive-false-claims-act-enforcement>

<sup>xxvi</sup> <https://www.justice.gov/archives/jm/civil-resource-manual-47-court-federal-claims-litigation#:~:text=The%20Tucker%20Act%2C%20as%20amended,the%20Court%20of%20Federal%20Claims.>

<sup>xxvii</sup> <https://governmentcontractsnavigator.com/2025/05/22/disagreeing-with-the-supreme-court-the-ninth-circuit-and-two-district-courts-find-apa-jurisdiction-in-challenges-to-federal-contract-and-grant-terminations/>

<sup>xxviii</sup> <https://fedcircuitblog.com/2021/03/31/online-symposium-the-federal-circuits-2020-rulings-reviewing-decisions-of-the-court-of-federal-claims-in-tucker-act-cases/>

<sup>xxix</sup> <https://www.congress.gov/crs-product/LSB10558#:~:text=The%20Act%20also%20sets%20out,may%20review%20those%20agency%20actions.>

<sup>xxx</sup>

[https://www.congress.gov/crs\\_external\\_products/LSB/HTML/LSB10536.web.html#:~:text=On%20review%2C%20the%20APA%20empowers,discretion%2C%20or%20otherwise%20not%20in](https://www.congress.gov/crs_external_products/LSB/HTML/LSB10536.web.html#:~:text=On%20review%2C%20the%20APA%20empowers,discretion%2C%20or%20otherwise%20not%20in)

<sup>xxxi</sup> *Trump v. CASA, Inc.*, 606 U.S. 26 (2025).



# INVESTING IN RACIAL EQUITY THROUGH CHARITABLE GRANTS AND SERVICES

Lawyers' Committee for Civil Rights Under Law | 2025

## **EFFORTS TO ADVANCE RACIAL EQUITY ARE UNDER ATTACK.**

Recent federal actions (including executive orders and federal agency memoranda) have sought to limit diversity, equity and inclusion, or "DEI", initiatives in the public and private sectors. These actions, however, do not reshape the legal landscape, especially for organizations that only receive private funds. These federal actions do not change long-standing civil rights law and as such, cannot categorically deem all DEI as unlawful. Whether or not any particular program violates the law is a determination made by the courts, as outlined in this document. Moreover, these federal actions apply only to the federal government and federally-funded organizations, and it is important to note that many of these executive actions are being challenged in courts.

Grantmakers, nonprofits, and others who seek to advance racial equity for communities of color are wondering if they need to adjust their approach to equity-focused grants and programs in this moment to minimize legal risk. At the same time, many charitable organizations are looking for ways to double down on maximizing impact for affected communities in an increasingly hostile landscape. This resource provides an overview of the most prominent legal development in this space—the *Fearless Fund* case—as well as a non-exhaustive list of lawful ways to continue the critical work of fostering fairness and economic opportunity for communities of color.

## **Putting Fearless Fund in Context**

Legal challenges to grant programs designed to provide access to economic opportunities for Black communities and other communities of color are on the rise. To date, most of these lawsuits have been dismissed because courts found the individuals or groups bringing the cases could not show "standing," i.e., that they were harmed by the programs they sought to eliminate. Other cases have settled after the defendants agreed to change the program.

One recent lawsuit was *American Alliance for Equal Rights ("AAER") v. Fearless Fund Management LLC ("Fearless Fund")*, which sought to stop a venture capital fund from providing \$20,000 grants to businesses that are majority-owned by Black women entrepreneurs. The case is informative for grantmakers, nonprofits, and others that provide grants or services on the basis of race or ethnicity.

The group that sued brought their claim under our nation's oldest civil rights law, section 1981 of the Civil Rights Act of 1866. That law, which was passed after the Civil War, provides that all people

have the same right to enter into and enforce contracts "as is enjoyed by white citizens." The lawsuit claimed that Fearless Fund's grant program violated section 1981 by discriminating against non-Black individuals entering into a contract, as it was restricted to Black women.

In June 2024, the U.S. Court of Appeals for the 11th Circuit ordered an immediate temporary pause to the grant program, finding it likely violated the law. In September 2024, the parties settled the case, with Fearless Fund agreeing to voluntarily end the grant program. Because the case settled before the court was able to decide the legality of the grant program on the full evidentiary record, the decision of the appeals court has limited impact. However, the ruling suggests that federal courts, particularly those in the 11th Circuit (Georgia, Alabama, and Florida) could determine that grants or other programs with contractual obligations violate section 1981 if decisions about who receives funds or services are made on the basis of the race or ethnicity of the applicant, regardless of the reparative or other beneficial goals of the programs.

## **Does the Grant or Program Create a Contract?**

In order to sue under section 1981, there must be a contract. Whether any specific agreement or relationship creates a legal contract does not depend on labels alone. Instead, it depends on the facts of the situation.

In *Fearless Fund*, the appeals court pointed to several facts that it said supported a finding of a contract. In exchange for entering the contest for the \$20,000 grant, the applicant:

- ▶ gave Fearless Fund publicity and intellectual property rights to use the applicant's name, image, and likeness as well disclose their business plan/idea,
- ▶ agreed to arbitration for any disputes, and
- ▶ promised to indemnify Fearless Fund for any related liability costs arising from the grant.

In addition, the grant application originally stated in all caps that applicants were agreeing to the "OFFICIAL RULES, WHICH ARE A CONTRACT."

Finding that applicants were entering into a contract with Fearless Fund, the appeals court found that the plaintiff's section 1981 claim was likely to succeed because the contract was expressly limited to Black women.

The appeals court finding was the first decision in the over 150-year-history of the post-Civil War civil rights law that has halted private charitable support for any racial or ethnic group. Anti-racial equity groups have filed a number of similar cases. One of their goals is to cause grantmakers and others to open their grant programs and services to all groups, even if the program is designed to level the playing field and advance economic freedom for groups that have been historically denied the same opportunities.

The Fearless Fund and others engaged in similar work seek to address discrimination that is long-standing and irrefutable. We urge philanthropies and nonprofits to not withdraw from their critical work to advance racial equity. Maintaining a focus on achieving racial equity is foundational and even more critical in this moment when racial progress is under attack. Remedying racial inequality benefits impacted communities and has substantial benefits to the economy and nation as a whole. There are many ways to continue this essential work within the confines of the law.

## What Does This Decision Mean for Philanthropic Grantmaking and Nonprofit Work Focused on Racial Equity?

The *Fearless Fund* decision does not mean an end to racially-informed grantmaking or nonprofit work. To the contrary, it is still lawful for organizations to have missions designed to advance racial equity. It is also fully lawful to explicitly discuss racism and discrimination. Specifically, charitable organizations can continue to discuss the effects of discrimination and justification for their racial equity programs on their organization websites and public-facing materials.

The decision has, however, created a landscape where using race as an explicit eligibility criterion for grants and services that could be interpreted as contracts is riskier. That said, there are many lawful ways to engage in grantmaking and programs to advance racial equity within this new landscape.

## Trust-based Philanthropy May Lower Section 1981 Liability Risk

Under federal law, in many cases, organizations that receive only private (nongovernmental) funds can engage in charitable grantmaking and services specifically for members of certain racial or ethnic groups, provided that the funds or services do not create a contract by imposing conditions or obligations on

the recipients to receive the charitable support. Trust-based philanthropy may offer a way forward. Under this approach, foundations seek to simplify unnecessary burdens on grantees to help ensure they have the flexibility and resources to succeed. Depending on the legal needs of the funder, grants may be distributed with either no grant agreement (in the case of giving to 501(c)(3) organizations), or with an agreement that is limited to the minimal legal requirements. Whether a grant or service creates a contract depends on the facts of the specific situation and likely requires legal review. For more information about trust-based philanthropy, including sample agreements, you can visit: <https://www.trustbasedphilanthropy.org/>.

## Additional Examples of Lower-Risk Measures to Advance Racial Equity

Whether or not a contract is formed, there are additional ways organizations can advance their racial equity goals through measures that are not race exclusive and treat applicants of all races and ethnicities the same. For example, organizations can:

- ▶ consider applicants' demonstrated commitment to advocacy on behalf of Black communities or communities of color;
- ▶ consider applicants' lived experiences with race, racism, and discrimination;
- ▶ voluntarily solicit demographic data from applicants and beneficiaries for analytical purposes to better measure program impacts and results;
- ▶ develop aspirational goals if certain groups are underrepresented in your application process;
- ▶ use targeted recruitment and advertising to increase racial and ethnic demographic representation of underrepresented groups in applicant pools, including partnering with Historically Black Colleges and Universities, Hispanic-Serving Institutions, and other Black, Indigenous, and People of Color-serving organizations.

*Note: this is not an exhaustive list.*

## Conclusion

We all must reaffirm our commitment to advancing racial equity within this new landscape. The Lawyers' Committee is committed to working with allied stakeholders, including philanthropies, nonprofits, and others to ensure that we can continue the critical work to create the future we all deserve.





## Understanding The Long Term Recovery, Disaster Case Management, Unmet Needs, and Why These Are Essential in Your Community

*Recovery is a Marathon, not a Sprint*

1



## Today's Agenda

- Structuring and refining your community's long-term recovery to best support disaster case management
- Disaster Case Management
- Leveraging available resources to prevent duplication of benefits and maximize charitable dollars
- Case coordination within the long-term recovery group
- Disaster recovery planning, and,
- Fundraising for your long-term recovery efforts

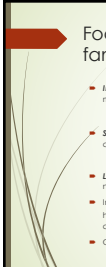
2



## What is long term recovery?

- The process where the actual repairing/rebuilding of homes and lives occurs
- Needed when personal resources, insurance, government grants, or loans are insufficient to meet the need
- Goal is to help those affected reach a 'new normal' (not a return to pre-disaster status)

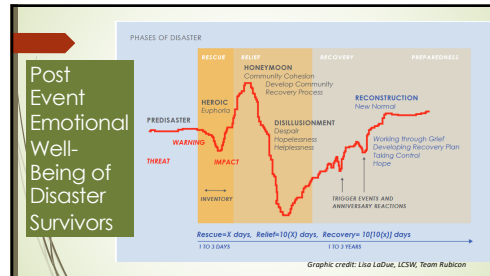
3



## Focuses on the Unmet Needs of individuals & families impacted by a disaster

- **Immediate Needs** - sheltering, emotional & spiritual care, feeding, clothing, medical, cleanup & minor repairs, etc.  
*Basic needs for survival*
- **Short Term Needs** - continuation of the above plus housing, home repairs, childcare, mental health assistance, grief counseling  
*Case Management becomes essential & continues until the case is closed.*
- **Long Term Needs** - focuses on returning and starting of what will become a new normal, creating a recovery plan
- Impacts potentially include counseling (mental health & PTSD are real issues), home rebuilds & repairs, employment, families & children, pets, credit counseling, creating a preparedness plan
- Getting households back home and on the road to recovery!

4

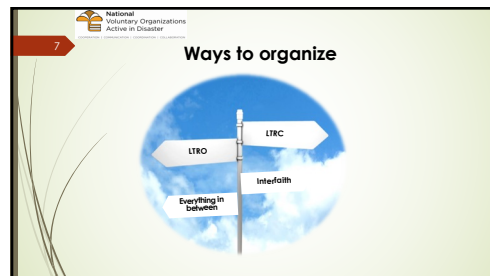


5

### What is the Long Term Recovery Group?

**Long Term Recovery** is a collaboration of non-profit, faith based, local, state or national organizations that work together to share information and resources that can help address the needs of individuals and families affected by the disaster.

6



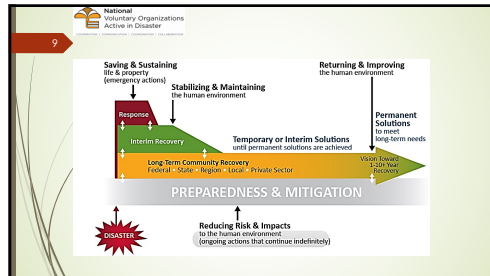
7

### What does the Long Term Recovery Group do?

The focus is on the UNMET NEEDS of Individuals

- **Long Term Needs** - focuses on returning and starting of what will become a new normal, creating a recovery plan
- Impacts potentially include counseling (mental health & PTSD are real issues), home rebuilds & repairs, employment, families & children, pets, credit counseling, creating a preparedness plan
- Getting households back home and on the road to recovery!

8



9

### How to set up a community-led disaster recovery program

**You have heard the saying "It takes a village" The same is true in long term recovery**

- Develop a structure that works best for your community.
- Assess what your needs are.
- Identify key organizations needed to complete your mission.

10

### How to create a successful recovery program

**The Success of your community's long term recovery is based on many factors, most important are**

- Case Management
- &
- Unmet Needs (Funders Table)

11

### Typical Long-Term Recovery Governance Flow Chart

1 of 2

**Leadership Team**  
(Chair, Vice Chair, Treasurer, Secretary/Communications)

**Community Recovery Committee**  
Executive Committee, Chair of each Sub-Committee (voting)  
Local, State & Federal Government and other NGO advisors (non-voting - Advisory Committee)

or

You may choose to form one committee of all the above acting as an Executive Team

AND

A Fiscal Sponsor/Foundation/United Way to handle the funding piece

12

**These are the capabilities that would be helpful**

2 of 2

**More helpful / Baseline to start**

- Case Management
- Unmet Needs

**Expansion Pack (as needs arise)**

- Construction
- Spiritual & Emotional Care
- Volunteer Management
- Donations Management
- Fundraising/Finance
- Housing
- Communication
- Additional Committees as needed

**General Membership**

- Non-committee members (resources i.e., money, muscle and materials)
- Additional staff from a member organization
- REMEMBER, many hands make light work.

13

**Tips on creating a Long Term Recovery Group**

- Create an inclusive, unified group with skilled, experienced people paired with passionate community members
- Develop solid policies and procedures
- Mission Statement
- By-Laws
- Have structure and guidelines
- Be culturally sensitive
- Do not discriminate
- Be intentional
- Take care of those you serve (Resumption of daily life)
- Understand the FEMA process and the sequence of delivery

14

**Choosing the right member agencies**

- Organizations with good leadership skills
- Knows the Community well
- Good Communicators
- Committed to their role
- Trusted & Responsible
- Doers
- Always doing what is right
- Compassionate, but able to think with their head and not their heart
- Fiscal Sponsor (most important)
- Fundraisers
- Most of all COLLABORATORS

**It's not about you or your organization! It's about focusing on the needs of others.**

15

**Who are the stakeholders?**

- Non-Governmental Organizations (NGOs) Non-Profits
- Faith-Based Organizations (FBOs)
- Community Based Organizations (CBOs)
- Foundations and other Funders
- Corporate America
- Local Businesses
- Civic/Service Clubs

Can and should include advisors from:

- Local Government
- Cal OES
- FEMA

16

**Advantages of LTRG**

- The 4Cs: Collaboration, Cooperation, Communication, and Coordination
- Avoid duplication of benefits to stretch dollars and help more people
- Access to Agencies simultaneously
- Expands opportunity for agencies to assist
- Benefit of collective problem solving skills
- Benefit of quick decision making and commitments from agencies providing services and resources
- Best and most extensive use of resources
- Provides a system for future interaction

17

**Every good long term recovery includes ...what?**

18

**Disaster Casework and Disaster Case Management**

...are functions in support of empowering and of addressing the basic needs and recovery needs of individuals and families.

19

**Construction Management**

...consists of overseeing repairing or rebuilding homes to safe, sanitary, secure and functional condition.

20



 21

### Volunteer Management

Volunteers are a key component to disaster response and should be managed and treated as a valuable resource throughout all the phases of disaster.



21

 22

### Communications

Having a good communications strategy is essential for the success of a long term recovery group.

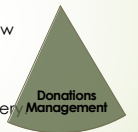


22

 23

### Donations Management

Responders who know how to effectively manage donated goods are more efficient at leading their community toward recovery.

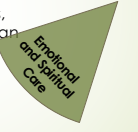


23

 24

### Emotional and Spiritual Care

Addressing the emotional and spiritual needs of individuals, families and communities can kindle important capacities of hope and resilience.



24

25

National  
Voluntary Organizations  
Active in Disaster

## Financial Controls and Reporting

It is the responsibility of the LTRG, along with its fiscal agent, to ensure that good financial controls are in place.

Financial Controls and Reporting

25

26

National  
Voluntary Organizations  
Active in Disaster

## How can your community move from good intentions to ACTION?

Mind the Gap

26

27

National  
Voluntary Organizations  
Active in Disaster

27

28

Reminders

28



So why is Long-Term Recovery  
Essential in your Community?

Without your community's efforts,  
many individuals  
and families will not return home!

29



**You're not alone!**  
**You have a support group around you!**

Valeri Mihanovich, Cal OES, Voluntary Agency Liaison;  
[Valeri.Mihanovich@CalOES.ca.gov](mailto:Valeri.Mihanovich@CalOES.ca.gov)  
Jacqueline Chadwick, FEMA Region 9 Voluntary Agency Liaison;  
[Jacqueline.Chadwick@fema.dhs.gov](mailto:Jacqueline.Chadwick@fema.dhs.gov)  
Patrick McGinn, Chair NorCal Voluntary Organizations Active in Disaster (VOAD);  
[Patrick.mcGinn@uiw.internationalmy.com](mailto:Patrick.mcGinn@uiw.internationalmy.com)

NorCal VOAD (Local VOAD/COAD partners)  
Service Providers  
County Government  
State & Federal Government  
Other Long Term Recovery Group partners from outside your area

30



# Unmet Needs Process – Recovery Planning

## DISASTER RECOVERY PLAN

Form ID: \_\_\_\_\_

| NO. | NAME OF UNMET NEED      | PERSON | DESCRIPTION                    | STATUS |
|-----|-------------------------|--------|--------------------------------|--------|
| 1   | Education needs         |        | Not met / under plan to be met |        |
| 2   | Basic needs             |        | Not Met/Under                  |        |
| 3   | Education Funding       |        | Under Review, Under appeal     |        |
| 4   | Income needed           |        | Under appeal                   |        |
| 5   | Sheltering needs (rent) |        | Under appeal                   |        |

DATE WHEN REVIEWED: \_\_\_\_\_

DATE NEXT DATE: \_\_\_\_\_

DATE WHEN REVIEWED: \_\_\_\_\_

**PERMANENT HOUSING GOAL: RECONSTRUCTION**  
 Reconstruction of home because we will be unable to afford to buy a new house

**PERMANENT HOUSING GOAL: RELLOCATION**  
 Relocation to a new address that is safe, secure, healthy and better located than our address if it exists.

**CLIENT'S PERMANENT HOUSING PLAN:**

OUTCOME: \_\_\_\_\_

DATE MET: \_\_\_\_\_

DATE PARTIALLY MET: \_\_\_\_\_

DATE NOT MET: \_\_\_\_\_

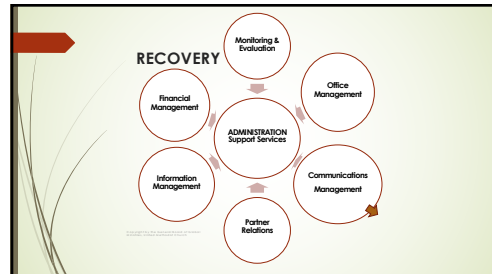
OUTCOME NOTES: \_\_\_\_\_

## LTRG Collaboration for Unmet Needs

- The unmet needs in your community and the scope of your program will dictate the amount of financial, volunteer and other resources needed to carry out your mission.
- The earlier the LTRG begins its program the better – donors will be more apt to give when the disaster event is still fresh in the minds of the public.

Identifying the unmet needs in your community, developing a budget, setting up an administrative structure, and figuring out where your resources are coming from are, in a sense, all preparatory steps to the real work of long term recovery. The heart of the day to day program comes in managing cases, allocating resources, and delivering services.

- 6



## What are your local resources?

Start with what is present within the community: local government, volunteers, referral services, disaster response and other social service agencies, media outlets, foundations, corporations, large churches and other religious institutions, etc.

Identify individual client capacities and abilities for recovery (this can be accomplished through the disaster case management process and/or a community wide unmet needs assessment process)

Promote connections or relationships between individuals, between individuals and organizations, and between organizations, encouraging them to share resources as they help to meet the needs of the wider community.

Stress local determination, investment, creativity, and control

8

### Financial Resources for Recovery

|                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Main Sources of Assistance</b> <ul style="list-style-type: none"> <li>Insurance</li> <li>Individuals and Households Program (FEMA)</li> <li>Disaster Home and Property Loan (SBA)</li> <li>State grant programs</li> <li>Charitable Aid</li> </ul> | <b>Other Sources of Assistance</b> <ul style="list-style-type: none"> <li>Mortgage Forbearance Programs                             <ul style="list-style-type: none"> <li>Credit Card and other Loan Forbearance Programs</li> </ul> </li> <li>Disaster Unemployment Assistance</li> <li>Disaster Supplemental Nutrition Assistance (D-SNAP)</li> <li>Farm &amp; Agricultural Assistance</li> <li>Loan Hardship Programs</li> </ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Assistance amounts vary by individual situation, losses, eligibility and resource availability

9

### Fundraising

Once you have developed your preliminary budget and have evaluated the resources from within the local community, you can now start to identify sources for funds that are outside the community:

- Access the available public funding streams (FEMA, SBA, HUD / HHS block grant funds, disaster unemployment, workforce development, etc.).
- Develop a plan to raise the additional funds needed, including personal and family resources, grants from community and/or corporate foundations, planning special community fundraising events, direct mail appeals, state or national faith based organizations, civic organizations, etc.

10

### Tapping into NVOAD Partners

In order for a Long Term Recovery Group to be recognized by National VOAD, it must have:

- Name
- Board of Directors (Administrative Team & Committee Chairs)
- Mission Statement
- Bylaws
- Fiscal Sponsor

11

### NOTE - Accessing Assistance Programs

**Commonly Required Information**

- Social security number
- Insurance information (policies, claim letters)
- Financial information (recent pay stubs, tax returns, bank statements, disaster assistance received from other sources)
- Housing information & proof of residence/ownership prior to disaster (deed, mortgage, lease, utility bills)
- List of personal and household items damaged by storm and value
- Actual lists of damages caused by disaster (photos and videos of damage taken room by room)

12

### Measuring Success

Monitoring your program and evaluating results regularly will ensure the ongoing success of the LTRG. In addition to confirming that indeed progress is being made, it will also help to encourage support from donors and continued community involvement, and will provide data that will be useful for planning future possible responses. Program results can include the following:

- Number of families receiving help through your LTRG
- Number of families returned to safe and secure permanent housing
- Decreased vulnerability in the community
- Increased community resilience, etc.

13

### Reviewing results

- Are we sticking to our mission?
- Have we identified the most vulnerable in the community?
- How well have we been able to locate the resources and services needed?
- Are we staying on budget and allocating available resources effectively?
- How many clients have been assisted?
- What kind of assistance has been provided?
- How many homes have been repaired and/or rebuilt so that clients can be returned to their homes?
- How many volunteers have provided how many hours of work?
- Are we working in ways that will mitigate the effects of future disasters, and will the community be more resilient as the result of our efforts?
- What things are going well with the program?
- What things might be done differently?
- What might be done to better prepare us for response to the next disaster?

14

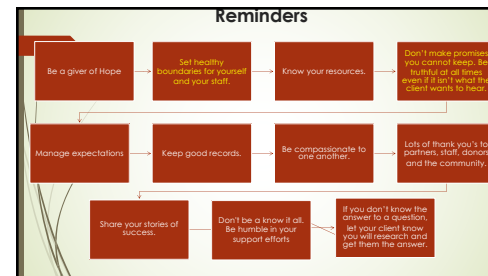
### Wrapping up at the end

The leadership of the LTRG should consider a final evaluation of the program as you wind down your efforts. This evaluation can include input from:

- client surveys
- LTRG partners, board and staff
- donors
- local government including state and local emergency management

The final evaluation can examine how the mission, goals and objectives of the LTRG were maintained and accomplished. Your donors, partners and the community as a whole deserve to be thanked, so don't be afraid to celebrate once your program is complete. Make the client story the centerpiece in written and spoken word, surrounded by the visual effects of a pictorial record, and remind the community to thank the agencies and grassroots groups who embraced their neighbors in need.

15



16



# YOUR LTRG UNMET NEEDS CASE PRESENTATION TOOL (OVER \$2K)

Client ID \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

## SECTION 1 – PRESENTING CASE MANAGER INFORMATION

|                             |  |
|-----------------------------|--|
| Date of Presentation        |  |
| Disaster Case Manager       |  |
| Name of Case Manager Agency |  |

## SECTION 2 – LTRG UNMET NEEDS COMMITTEE CRITERIA AND RISK ASSESSMENT INDICATORS

|                                                                                                                              |                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| <b>SERVICE CRITERIA</b><br>(Please check all that apply)                                                                     | <input checked="" type="checkbox"/> Disaster impacted                                      |
|                                                                                                                              | <input checked="" type="checkbox"/> Within the service area of the LTRG                    |
| <b>RISK ASSESSMENT INDICATORS</b><br><br>Applicant must meet 1 or more of these indicators.<br>(Please check all that apply) | <input checked="" type="checkbox"/> Single-parent head of household with children under 18 |
|                                                                                                                              | <input type="checkbox"/> Household with disability and impacts ability to recover          |
|                                                                                                                              | <input type="checkbox"/> Living in unsafe conditions                                       |
|                                                                                                                              | <input type="checkbox"/> Household with members over 65 and vulnerable                     |
|                                                                                                                              | <input type="checkbox"/> Household experiencing significant emotional distress             |
|                                                                                                                              | <input checked="" type="checkbox"/> Health/Mental health concerns in household             |
|                                                                                                                              | <input checked="" type="checkbox"/> Underinsured or uninsured                              |
|                                                                                                                              | <input checked="" type="checkbox"/> Displaced from pre-disaster residence                  |
|                                                                                                                              | <input checked="" type="checkbox"/> Did not receive Federal funding                        |
|                                                                                                                              | <input type="checkbox"/> Other                                                             |
| <b>RELEASES OBTAINED</b><br>(Please check all that apply)                                                                    | <input checked="" type="checkbox"/> Agency Release of Confidential Information             |
|                                                                                                                              | <input type="checkbox"/> Other                                                             |
| <b>VERIFICATION OBTAINED</b><br>(Please check all that apply)                                                                | <input checked="" type="checkbox"/> Client Identification                                  |
|                                                                                                                              | <input checked="" type="checkbox"/> Financial Need                                         |
|                                                                                                                              | <input checked="" type="checkbox"/> Pre-disaster residence / primary residence             |
|                                                                                                                              | <input type="checkbox"/> Other<br>See Section 4 for copies available upon request          |

## SECTION 3 – STRUCTURE DAMAGE ASSESSMENT

| STRUCTURE DESCRIPTION                                        | TYPE (ex: stick, MH)                                                        | SQ FT | HOW IS PROPERTY TITLED                     | LOCATION OF PROPERTY      |
|--------------------------------------------------------------|-----------------------------------------------------------------------------|-------|--------------------------------------------|---------------------------|
| <i>e.g., single family dwelling, ranch, barn, guest home</i> | <i>e.g., stick-built, tiny home, modular, mobile home, granny flat, ADU</i> |       | <i>e.g., trust, deed, individual, bank</i> | <i>City, HOA (if any)</i> |
| Single family home                                           | Pier & post cabin                                                           | 900   | Individual ownership                       |                           |
|                                                              |                                                                             |       |                                            |                           |

# YOUR LTRG UNMET NEEDS CASE PRESENTATION TOOL (OVER \$2K)

Client ID \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

## SECTION 4 – SUMMARY OF AVAILABLE RESOURCES

### RESOURCES RECEIVED

| PERSONAL FUNDING              |          | INSURANCE/GOVT FUNDING                                               |          |
|-------------------------------|----------|----------------------------------------------------------------------|----------|
| INSURANCE ALE                 | \$0      | INSURANCE                                                            | \$0      |
| SAVINGS*                      | \$10,000 | FEMA                                                                 | \$41,000 |
| 401K*                         | \$75,000 | SBA LOAN                                                             | \$30,000 |
| BANK LOAN                     | \$0      | STATE GRANT                                                          | \$10,000 |
| RENTAL ASSISTANCE             | \$0      | OTHER                                                                | \$0      |
| OTHER (FAMILY, FRIENDS, ETC.) | \$1,000  | SUBTOTAL                                                             | \$81,000 |
| SUBTOTAL                      | \$1,000  | *Savings and 401K considered separately – not calculated into total. |          |

### RESOURCES AVAILABLE

| PERSONAL FUNDING                                                  |          | INSURANCE/GOVT FUNDING                                               |          |
|-------------------------------------------------------------------|----------|----------------------------------------------------------------------|----------|
| INSURANCE ALE                                                     | \$0      | INSURANCE                                                            | \$0      |
| SAVINGS*                                                          | \$10,000 | FEMA                                                                 | \$15,000 |
| 401K*                                                             | \$75,000 | SBA LOAN                                                             | \$30,000 |
| BANK LOAN                                                         | \$0      | STATE GRANT                                                          | \$7,000  |
| RENTAL ASSISTANCE                                                 | \$0      | OTHER                                                                | \$0      |
| OTHER (FAMILY, FRIENDS, ETC.)                                     | \$0      | SUBTOTAL                                                             | \$52,000 |
| SUBTOTAL                                                          | \$0      | *Savings and 401K considered separately – not calculated into total. |          |
| TOTAL RESOURCES AVAILABLE                                         |          |                                                                      |          |
| Add PERSONAL FUNDING SUBTOTAL and INSURANCE/GOVT FUNDING SUBTOTAL |          | \$52,000                                                             |          |

### CURRENT INCOME

|                                           |                                 |                                             |
|-------------------------------------------|---------------------------------|---------------------------------------------|
| ANNUAL OR MONTHLY (please check only one) | <input type="checkbox"/> Annual | <input checked="" type="checkbox"/> Monthly |
|-------------------------------------------|---------------------------------|---------------------------------------------|

# YOUR LTRG UNMET NEEDS CASE PRESENTATION TOOL (OVER \$2K)

Client ID \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

|                              | PRE-DISASTER | CURRENT  | POST-DISASTER<br>(PROJECTED) |
|------------------------------|--------------|----------|------------------------------|
| <b>INCOME</b>                | \$3,000      | \$2,000  | \$3,000                      |
| <b>EXPENSES</b>              | \$2,700      | \$3,500  | \$2,700                      |
| <b>CASH FLOW</b>             | \$300        | -\$1,500 | \$300                        |
| <b>TOTAL TOWARD RECOVERY</b> | \$           | -\$1,500 | \$300                        |

## SECTION 5 – UNMET NEED and ESTIMATED VALUE

| Description of unmet need |                                                                                                          | Estimated Cost  |
|---------------------------|----------------------------------------------------------------------------------------------------------|-----------------|
| 1                         | Repair materials, Volunteer Labor needed                                                                 | \$30,000        |
| 2                         | Replacement furniture and appliances                                                                     | \$10,000        |
| 3                         | Replacement clothing/household items                                                                     | \$8,000         |
| 4                         | Replacement electronics/children's computer for school                                                   | \$3,500         |
| 5                         | Rewiring home                                                                                            | \$12,000        |
| 6                         |                                                                                                          |                 |
| 7                         |                                                                                                          |                 |
| 8                         | Sales tax (estimated average for all purchases based on Your County rate)                                | \$1,500         |
| 9                         |                                                                                                          |                 |
| 10                        |                                                                                                          |                 |
| 11                        |                                                                                                          |                 |
| 12                        |                                                                                                          |                 |
| A                         | <b>Total value of unmet need (Add Rows 1 through 12)</b>                                                 | <b>\$65,000</b> |
| B                         | <b>Total amount available to use toward recovery of unmet need<br/>(Enter TOTAL RESOURCES AVAILABLE)</b> | <b>\$43,000</b> |
| C                         | <b>Total value requested from Unmet Needs (Subtract Row B from Row A)</b>                                | <b>\$13,000</b> |

## YOUR LTRG UNMET NEEDS CASE PRESENTATION TOOL (OVER \$2K)

Client ID \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

### SECTION 6 - CLIENT NARRATIVE

*Briefly introduce and describe the survivor and/or family members. Describe the: (a) client's recovery plan; (b) type of loss; (c) structure(s) being rebuilt/repared; (d) breakdown of expenditures; and (e) closing statement of need, e.g., why or why not is the client unable or not recommended to utilize all the resources available..*

This client is a single mother who supported three children. Since their home was flooded, she has been living in an apartment with her children and paying \$1,500 in rent, which exceeds what she earns.

The client was uninsured and could only qualify for \$30,000 in SBA assistance. Her FEMA assistance is earmarked for rental assistance, contents replacement, and some repair funds. This client will be displaced from her home and paying the \$1,500 in rent until the repairs are completed and the home is safe for her and her young children.

Her recovery plan includes having to pay for rental assistance for at least 4 more months (subtracted 6 months of rent from Row B, "Total amount available...").

# YOUR LTRG UNMET NEEDS CASE PRESENTATION TOOL (OVER \$2K)

Client ID \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

## SECTION 7 – FUNDING DECISION (please check only one)

☐ Funded ☐ Declined; applicant does not meet criteria for program services. Indicate reason(s) below.

## COMMITMENTS FROM FUNDERS

*Disaster Case Manager will note the appropriate information that is associated with client resource / service / funds committed by partner agencies that will be applied to recovery.*

|                      |  |
|----------------------|--|
| Name of organization |  |
| Service / Resource   |  |
| Contact Person       |  |
| Phone / Email        |  |
| Name of organization |  |
| Service / Resource   |  |
| Contact Person       |  |
| Phone / Email        |  |
| Name of organization |  |
| Service / Resource   |  |
| Contact Person       |  |
| Phone / Email        |  |

Disaster Case Manager \_\_\_\_\_

Date \_\_\_\_\_

Disaster Case Manager Supervisor \_\_\_\_\_

Date \_\_\_\_\_

Unmet Needs Committee Chair/Co-Chair \_\_\_\_\_

Date \_\_\_\_\_

Fiscal Manager Signature \_\_\_\_\_

Date \_\_\_\_\_



**National  
Voluntary Organizations  
Active in Disaster**

COOPERATION | COMMUNICATION | COORDINATION | COLLABORATION

**LTRG Financial Management and  
Grant Writing**

Validated by  
NVOAD Board

**Recovery Tools Workshop**

1

### Stages of Disaster Recovery Funding

- Immediate Relief:** Right after a disaster is the time to remind the public that cash contributions for recovery are best
- Short-term Recovery:** Raising recovery funds must be a priority to maximize resources available to assist survivors
- Long-term Rebuilding:** In this stage relationships with funders will need to be prioritized. They will play a key role by making strategic investments in restoring and replacing survivor homes



2

### Financial Management Structure Considerations

-  **Fiscal Agent (fiduciary)?** - You may choose to enlist the support of a trusted non-profit partner that is willing and able to assume a financial management role on behalf of the organization under a memorandum of understanding
-  **501(c)(3)?** - Establishing the long-term recovery organization as a non-profit is an option for those that incorporate, manage their own finances, and take other steps required by the Internal Revenue Services



3

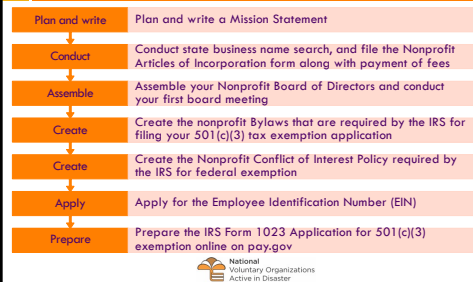
### If you choose to use a Fiscal Agent

- Identify a non-profit partner capable of providing financial management support
- Ensure that the prospective fiscal agent relationship won't restrict the organization's ability to raise funds for recovery
- Negotiate a memorandum of understanding (MOU)
  - The fiscal agent may be subject to the same due diligence
  - The MOU should describe the responsibilities of each organization
  - If fees will be charged, they should be specified in the MOU



4

## If you choose to form a 501(c)(3)



5

## Financial Stewardship of Funds

- Donors are making investments in your organization and will do so only if they believe their money will be used effectively.
- Nonprofits must **demonstrate their financial stability in order to gain funds.**
- Ensuring that you have good accounting methods and that you can verify where you spend donated dollars is imperative!



6

## Securing Resources

- Securing resources must start early and continue throughout recovery, with resources coming from:
    - Public Contributions
    - Partner Contributions and In-kind Support
    - Benefit Concerts
    - Special Events
    - Grants from Public, Private and Community Organizations
- Note - Grants may not be available** for all types of organizational expenses. Fundraisers and donor solicitation may be more appropriate for some costs, such as administrative expenses.



7

## What's Required to Secure Grants?

- You have a great plan
- You're addressing an important need
- Your committee has expertise
- You've done your homework
- You've followed directions
- Your board is committed to recovery
- Your proposal is a great fit



8



### Criteria for Grant Research

General topic search (Disaster Recovery/Needs)

Geography

Demographics

Legal status

Grant size

Funding patterns

Enlist contact at grantmaking organization

Ethical considerations



9

### Resources for Grant Research

Public libraries

Educational institutions

Partner organization personnel

Foundations search platform



10

### What are (most) funders looking for?

- Strategic projects/programs that address the unmet needs of the affected communities in an efficient and effective manner
- SCALABLE projects/programs
- Projects/programs that address the funders' identified issues
- Good use of resources
- Solid partnerships/collaborations



11

### Foundations

- Community Foundations
- Corporations and Corporate Foundations
- Private and Family Foundations



12

## Community Foundations

-  Classified as 501(c)(3)
-  Limited to a local area
-  Solicit contributions from individuals
-  May have several special programs



13

## Corporations and Corporate Foundations



14

## Private and Family Foundations

-  Classified as 501(c)(3)
-  Make grants in defined geographic areas
-  Distribute organizational resources
-  Typically, have defined giving priorities



15

## Government Grants

### Three Levels Of Government:

- Federal
- State
- Local city and county

### Pros Of Government Grants:

- Can receive a large amount of funding for a project
- Often have funding available for multiple-year projects or renewable funds

### Cons Of Government Grants:

- Process of application and maintaining can be daunting
- Reporting requirements are often very stringent



16

## Government Grant Process

- Most government grants are announced through "Requests for Proposal" and "Notice of Fund Availability"
- Attend a grant workshop for the application
- Find collaborators in the community to strengthen the application
- Get to know the grant administrator



17

## Government Grant Resources

- [Catalog of Federal Domestic Assistance \(CFDA\)](#)
- The Federal Register [www.federalregister.gov](http://www.federalregister.gov)
- Government Disaster Funding [www.disasterassistance.gov/](http://www.disasterassistance.gov/)
- Community Development Block Grant Programs [www.hudexchange.info/programs/cdbq-cdr](http://www.hudexchange.info/programs/cdbq-cdr)
- US Grant Portal [www.grants.gov](http://www.grants.gov)
- Economic Development Grants [www.eda.gov](http://www.eda.gov)
- Department of Mental Health Grants and Contracts [www.samhsa.gov/grants/](http://www.samhsa.gov/grants/)



18

## Relationship Building—A Key Factor

- **People give to people** — this can be true even at the foundation level
- **Get to know the staff** at the foundation which will help them know YOU when your application comes across their desk
- **Don't waste their time** — do your homework and be ready with talking points
- **Be prepared** for site visits or interviews
- **Follow-up** with them and stay in touch



19

## Planning Your Proposal

- **Logic models are road maps to your destination.**
- One Page Table or Chart
- Shows how outcomes that you want are linked to resources, activities, and outputs needed to achieve them.



20

## Completing a Logic Model

- ✓ Inputs
- 👤 Activities
- 🔊 Outputs
- 📊 Outcomes
- 🧠 Assumptions
- 👥 Influences

 National  
Voluntary Organizations  
Active in Disaster



National  
Voluntary Organizations  
Active in Disaster

[illegible]

National  
Voluntary Organizations  
Active in Disaster

## Selecting Outcomes



**Short Term**  
Related to individuals



**Expect to see the results**  
**during or soon after your**  
**project**



National  
Voluntary Organizations  
Active in Disaster



National  
Voluntary Organizations  
Active in Disaster

# Selecting Outcomes Continued

- **Long Term**
  - Community level, or long-term effects for individual
    - Mitigation: homes are hardened and resilient
    - Social: people are in a social network with access to resources
- **Kellogg Foundation is a good resource for learning about Logic Models**
  - [www.wkkf.org](http://www.wkkf.org)



National  
Voluntary Organizations  
Active in Disaster



National  
Voluntary Organizations  
Active in Disaster

## The Cover Letter

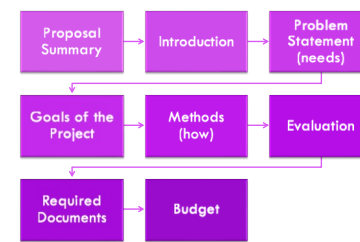
- ❑ Includes name of project and \$ amount requested
- ❑ Talk about why the project is a good fit
- ❑ Describe why you're excited about the project
- ❑ Signed by an authorized person



 National  
Voluntary Organizations  
Active in Disaster

25

## Elements of Your Proposal



 National  
Voluntary Organizations  
Active in Disaster

26

## Key Element – Problem Statement

Statement of Need

Define: Who, What, When, Where, Why

Fact-based

Is a statement of current conditions

Does not talk about lack of services

 National  
Voluntary Organizations  
Active in Disaster

27

## Statistics - The Heart of Your Case for Support

 Statistics support applications using community data

 Grant applications often ask for a "need statement"

 Statistics help show baseline data

 Statistics on demographics help you determine priorities, improve programs, and plan future programs

 ALWAYS reference your statistics to add validity

 National  
Voluntary Organizations  
Active in Disaster

28

## Key Element – Evaluation

### Why Evaluate?

- Improve the program/process
- Define its efficacy and funding
- Respond to regulations and accrediting agencies
- Provide information for decision making

### A Good Evaluation Includes

- Quantitative measures and qualitative measures



29

## Key Element – Evaluation Continued

### Quantitative measures are those that gather numbers for analysis

- Number of people benefiting from programs
- Improvements in disaster recovery rates

### Qualitative measures collect information that provides rich details

- The core of the project what worked best, or not at all?
- What do the numbers mean?



30

## Key Element – Evaluation Methods

 Value of service provided

 Questionnaires / Surveys

 Interviews

 Focus Groups

 Review of client files



31

## Key Element – Budgeting

 A Funding plan that is heavily dependent on grant funds will be considered weak

 List the sources of income and amounts

 State which resources are committed and pending, or to be requested

 Letters of commitment from partners



32

### Key Element – Budgeting Continued

- ❑ Is the budget appropriate for the scope of the project?
- ❑ Are the calculations for line-items specific?
- ❑ Are there justifications for line items that seem disproportionate?
- ❑ Are all line-items supported by the narrative of the proposal?
- ❑ Is the program also to be supported by matching resources? What funds are committed?



33

### Key Element – Budgeting Continued

- ❑ **Direct Expenses**
  - ❑ The day-to-day costs
  - ❑ Personnel
  - ❑ Materials and services
  - ❑ Capital expenses
- ❑ **Indirect Expenses (as allowed)**
  - ❑ Costs that support the management systems of the organization, shared among programs



34

### Key Element – Budgeting Continued

- ❑ Establish an indirect rate for all programs
- ❑ Not all Grantmakers will pay for indirect costs
- ❑ These costs are a legitimate part of your budget
- ❑ Federal grantors require that you establish a rate for federal projects



35

### Key Element – Budgeting Continued

- ❑ Detailed line-item budget
- ❑ List of each budget item, showing how you calculated the costs or the value of the item
- ❑ Budget justification
- ❑ Budget detail, budget narrative
- ❑ Written explanation of budget items that may raise questions (sometimes an explanation of every line-item will be requested)



36



## Tips on Writing Great Proposals

- ❑ Follow directions
- ❑ Meet deadlines
- ❑ Write clearly and concisely
- ❑ Avoid jargon and acronyms
- ❑ Use facts
- ❑ Balance numbers and people
- ❑ Proofread



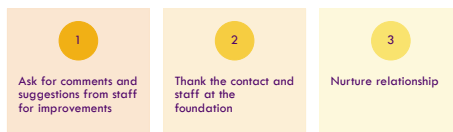
37

## Common Attachments



38

## When You Do Not Get the Grant



39

## Best Practices

- ❑ Effective Accounting is key to getting and maintaining grants.
- ❑ Function allocation of expenses is a requirement for nonprofit accounting. It is much more restrictive in federal funds accounting.
- ❑ An Annual Audit (or Financial Review) is needed to get larger grants.
- ❑ In-kind accounting is also important to get grants.
- ❑ Transparency and Accounting is critical for funding.



40

## How to Secure a Grant Writer

- Define your needs and available investment
  - Are you seeking help with grants from start to finish, or just elements of the process?
  - Do you need full time, part time, contract, or volunteer support?
- Planning for supervision of the grant writer



41

## How to Secure a Grant Writer continued



### What should you include in the position description?

Description of organization  
Summary of duties and responsibilities  
Experience and qualification requirements



### How will you advertise the vacancy?

Promote through partners  
Job boards  
Fundraising associations  
Social media



### What should you look for in a candidate?

Experience writing and securing the type of grants you will be pursuing  
Can provide examples and references  
Communicates clearly  
Good fit with the culture



42

## Questions and Answers



43



**National  
Voluntary Organizations  
Active in Disaster**

COOPERATION | COMMUNICATION | COORDINATION | COLLABORATION

Thank you for your participation. For more information, contact your local leadership or National VOAD at [www.nvoad.org](http://www.nvoad.org)

44

| INPUTS                                                                                                                                                          |                                                                                   | ACTIVITIES                                                                                                                                                                                                                                                                                          |                                                                                   | OUTPUTS                                                                                                                                                                                                                                                                                  |                                                                                     | OUTCOMES                                                                                                                                                                    |                                                                                                           |                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| LTRG Members & Partners<br>COAD/VOAD Members<br>LTRG Committees<br>Volunteers<br>Time<br>Money<br>Supplies<br>Construction Materials<br>Equipment<br>Technology |  | Apply Tarps<br>Muck out/Clean up<br>Emergency Assistance<br>Needs Assessment<br>Casework and referral to services<br>Case Management<br>Convene members and partners<br>Engage NVOAD member organizations<br>Secure donated resources<br>Facilitate unmet needs process<br>Repair and replace homes |  | Roofs tarped<br>Homes mucked out<br>Homes cleared of debris<br>Basic needs for food, clothing and shelter met<br>Long term recovery plans developed with survivors<br>Homes repaired in accordance with current building code<br>Homes replaced in accordance with current building code |  | Short-term<br>(12 weeks)                                                                                                                                                    | Medium-term<br>(6 months)                                                                                 | Long-term<br>(12 months +)                                                                                                                        |
|                                                                                                                                                                 |                                                                                   |                                                                                                                                                                                                                                                                                                     |                                                                                   |                                                                                                                                                                                                                                                                                          |                                                                                     | Survivors have adequate food<br>Survivors have adequate clothing<br>Survivors have basic shelter<br>Debris has been removed allowing access to homes<br>Survivors have hope | Homes are free of toxic mold<br>Clients have developed a recovery plan with the support of a Case Manager | Homes have been repaired, and are safe, sanitary, and functional<br>Homes are more resilient to future disasters<br>Enhanced community resilience |

| PROCESS EVALUATION                                                                                                                   |  |                                              | OUTCOME EVALUATION                        |                                                |                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------|-------------------------------------------|------------------------------------------------|---------------------------------------------------------|
| Status of assistance based on review of Crisis Clean-up<br>Status of long term recovery organization<br>Engagement of NVOAD partners |  | Reports from disaster response organizations | Survey of clients<br>Crisis Clean-up data | Crisis Clean-up data<br>Review of client files | Case closure status<br>Certificates of occupancy issued |

## Long Term Recovery Group Name

### Mission Statement

(Name of Long-Term Recovery Group) is a collaboration of non-profit, faith based, local, state or national organizations that work together to share information and resources that can help address the needs of individuals and families affected by the (name) disaster.

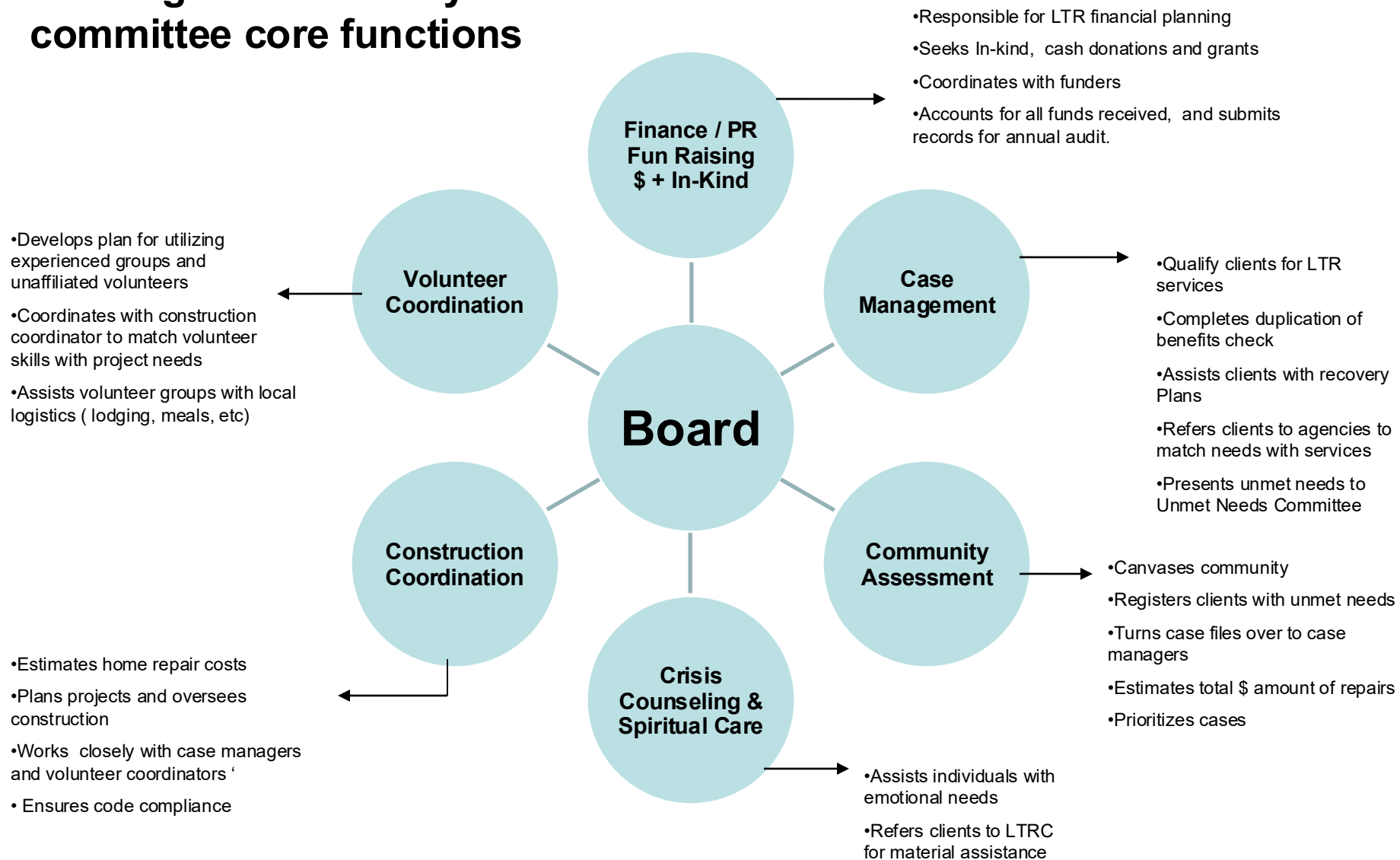
**Mission:** (Name of Long-Term Recovery Group) *mission is to assist in identifying the unmet needs of those affected by disaster, and to coordinate access to resources that would provide relief.*

#### Goals:

*Hint: Ten steps to help your organization set and meet goals:*

- *Goals must fit the organization's culture and character*
- *State goals positively*
- *Goals must be specific and clear.*
- *The goal must be measurable*
- *Goals should be realistic but attainably high (not too easy, not too hard)*
- *Designate a date for achievement*
- *State goals in writing*
- *List all obstacles and for each, list at least one solution*
- *Write down why the organization will be successful*
- *Regularly evaluate progress and make adjustments*

# Long term recovery committee core functions





# National Disaster Recovery Framework

*Second Edition*  
*June 2016*



Homeland  
Security





## Executive Summary

The *National Disaster Recovery Framework* (NDRF) establishes a common platform and forum for how the whole community builds, sustains, and coordinates delivery of recovery capabilities. Resilient and sustainable recovery encompasses more than the restoration of a community's physical structures to pre-disaster conditions. Through effective coordination of partners and resources, we can ensure the continuity of services and support to meet the needs of affected community members who have experienced the hardships of financial, emotional, and/or physical impacts of devastating disasters.

The primary value of the NDRF is its emphasis on preparing for recovery in advance of disaster. The ability of a community to accelerate the recovery process begins with its efforts in pre-disaster preparedness, including coordinating with whole community partners, mitigating risks, incorporating continuity planning, identifying resources, and developing capacity to effectively manage the recovery process, and through collaborative and inclusive planning processes. Collaboration across the whole community provides an opportunity to integrate mitigation, resilience, and sustainability into the community's short- and long-term recovery goals.

**This Framework is always in effect, and elements can be implemented at any time.** The structures, roles, and responsibilities described in this Framework can be partially or fully implemented in the context of a threat or hazard, in anticipation of a significant event, or following an incident. Selective implementation of the NDRF allows for a scalable and deliberate delivery of specific resources and capabilities and a level of coordination appropriate for each incident. Building on a wealth of objective and evidence-based knowledge and community experience, this Framework seeks to increase awareness of recovery capabilities across the whole community.

Key elements of the NDRF since it was first published in 2011 that are significant for all readers are the guiding principles and the Recovery core capabilities. The NDRF is guided by eight principles that when put into practice, maximize the opportunity for achieving recovery success. The guiding principles remind us of the importance of how we work together to support survivor needs and build resilience:

- Individual and Family Empowerment;
- Leadership and Local Primacy;
- Pre-Disaster Recovery Planning;
- Engaged Partnerships and Inclusiveness;
- Unity of Effort;
- Timeliness and Flexibility;
- Resilience and Sustainability; and
- Psychological and Emotional Recovery.

This edition of the NDRF highlights and further defines the eight Recovery core capabilities—critical functions to enable preparedness and recovery—as identified in the National Preparedness Goal. Three core capabilities are common to all five mission areas: Planning; Public Information and Warning; and Operational Coordination. The remaining five are specific to recovery:

- Economic Recovery;

- Health and Social Services;
- Housing;
- Infrastructure Systems; and
- Natural and Cultural Resources.

The NDRF focuses on ensuring that the Nation will be able to achieve recovery following any incident regardless of size or scale, and considers the full spectrum of threats and hazards, including natural, technological/accidental, and adversarial/human-caused. The NDRF helps ensure that all communities can coordinate recovery efforts to address their unique needs, capabilities, demographics, and governing structures. It encourages an inclusive recovery process, engaging traditional and nontraditional whole community partners, and provides a strategic and national approach to lead, manage, and coordinate recovery efforts while increasing the resilience of our communities.

## Table of Contents

|                                                                      |           |
|----------------------------------------------------------------------|-----------|
| <b>Executive Summary .....</b>                                       | <b>i</b>  |
| <b>Introduction .....</b>                                            | <b>1</b>  |
| <b>Framework Purpose and Organization .....</b>                      | <b>1</b>  |
| <b>Evolution of the National Disaster Recovery Framework .....</b>   | <b>3</b>  |
| <b>Intended Audience .....</b>                                       | <b>3</b>  |
| <b>Scope .....</b>                                                   | <b>4</b>  |
| <b>Recovery Continuum .....</b>                                      | <b>4</b>  |
| <b>Guiding Principles .....</b>                                      | <b>5</b>  |
| <b>Risk-Basis.....</b>                                               | <b>8</b>  |
| <b>Roles and Responsibilities.....</b>                               | <b>9</b>  |
| <b>Ensuring Inclusion of Whole Community .....</b>                   | <b>10</b> |
| <b>Individuals, Families, and Households .....</b>                   | <b>11</b> |
| <b>Nongovernmental Organizations.....</b>                            | <b>11</b> |
| <b>Private Sector Entities .....</b>                                 | <b>13</b> |
| <b>Local Governments.....</b>                                        | <b>14</b> |
| <b>State, Tribal, Territorial and Insular Area Governments .....</b> | <b>17</b> |
| <b>Federal Government.....</b>                                       | <b>21</b> |
| <b>Core Capabilities.....</b>                                        | <b>24</b> |
| <b>Planning .....</b>                                                | <b>25</b> |
| <b>Public Information and Warning.....</b>                           | <b>27</b> |
| <b>Operational Coordination .....</b>                                | <b>28</b> |
| <b>Economic Recovery.....</b>                                        | <b>29</b> |
| <b>Health and Social Services .....</b>                              | <b>30</b> |
| <b>Housing .....</b>                                                 | <b>30</b> |
| <b>Infrastructure Systems .....</b>                                  | <b>31</b> |
| <b>Natural and Cultural Resources.....</b>                           | <b>32</b> |

|                                                            |           |
|------------------------------------------------------------|-----------|
| <b>Coordinating Structures and Integration .....</b>       | <b>33</b> |
| Nongovernmental Organizations Coordinating Structures..... | 34        |
| Local Coordinating Structures .....                        | 35        |
| State/Territorial Coordinating Structures .....            | 35        |
| Tribal Coordinating Structures.....                        | 36        |
| Federal Coordinating Structures.....                       | 36        |
| Integration .....                                          | 42        |
| <b>Relationship to Other Mission Areas.....</b>            | <b>43</b> |
| Prevention .....                                           | 43        |
| Protection.....                                            | 44        |
| Mitigation.....                                            | 44        |
| Response.....                                              | 44        |
| <b>Operational Planning .....</b>                          | <b>44</b> |
| Planning Assumptions .....                                 | 45        |
| Planning Activities .....                                  | 45        |
| <b>Framework Application.....</b>                          | <b>48</b> |
| Achieving Successful Recovery .....                        | 49        |
| Measuring Recovery Progress .....                          | 50        |
| <b>Supporting Resources.....</b>                           | <b>51</b> |
| <b>Conclusion.....</b>                                     | <b>52</b> |

## Introduction

The National Preparedness System outlines an organized process for the whole community to move forward with their preparedness activities and achieve the National Preparedness Goal. The National Preparedness System integrates efforts across five preparedness mission areas—Prevention, Protection, Mitigation, Response, and Recovery—in order to achieve the goal of a secure and resilient Nation. The National Disaster Recovery Framework (NDRF), part of the National Preparedness System, outlines the strategy and doctrine for how the whole community<sup>1</sup> builds, sustains, and coordinates delivery of Recovery core capabilities identified in the National Preparedness Goal in an integrated manner with the other mission areas. This second edition of the NDRF reflects the insights and lessons learned from real-world incidents and the implementation of the National Preparedness System.

**Prevention:** The capabilities necessary to avoid, prevent, or stop a threatened or actual act of terrorism. Within national preparedness, the term “prevention” refers to preventing imminent threats.

**Protection:** The capabilities necessary to secure the homeland against acts of terrorism and man-made or natural disasters.

**Mitigation:** The capabilities necessary to reduce loss of life and property by lessening the impact of disasters.

**Response:** The capabilities necessary to save lives, protect property and the environment, and meet basic human needs after an incident has occurred.

**Recovery:** The capabilities necessary to assist communities affected by an incident to recover effectively.

## Framework Purpose and Organization

As a component of national doctrine, the NDRF describes principles, processes, and capabilities essential for all communities to more effectively manage and enable recovery following an incident of any size or scale. This Framework defines how the whole community, including emergency managers, community development professionals, recovery practitioners, government agencies, private sector, nongovernmental organization (NGO) leaders, and the public, will collaborate and coordinate to more effectively utilize existing resources to promote resilience and support the recovery of those affected by an incident. The National Preparedness Goal defines resilience as “the ability to adapt to changing conditions and withstand and rapidly recover from disruption due to emergencies.”

The NDRF advances the concept that recovery extends beyond simply repairing damaged structures. It also includes the continuation or restoration of services critical to supporting the physical, emotional, and financial well-being of impacted community members. Recovery includes the restoration and strengthening of key systems and resource assets that are critical to the economic stability, vitality, and long-term sustainability of the communities themselves. These include health

<sup>1</sup> The whole community includes individuals and communities, the private and nonprofit sectors, faith-based organizations, and all levels of government (local, regional/metropolitan, state, tribal, territorial, insular area, and Federal). Whole community is defined in the National Preparedness Goal as “a focus on enabling the participation in national preparedness activities of a wider range of players from the private and nonprofit sectors, including nongovernmental organizations and the general public, in conjunction with the participation of all levels of government in order to foster better coordination and working relationships.”

(including behavioral health) and human services capabilities and networks, public and private disability support and service systems, educational systems, community social networks, natural and cultural resources, affordable and accessible housing, infrastructure systems, and local and regional economic drivers. Together, these elements of recovery contribute to rebuilding resilient communities equipped with the physical, social, cultural, economic, and natural infrastructure required to meet future needs.

This Framework establishes scalable, flexible, and adaptable coordinating platforms that align key roles and responsibilities across the whole community and depicts a process in which a community fully engages and considers the needs of all its members. A key element of the process is that the community assumes leadership in developing recovery priorities and activities that are realistic, well-planned, and clearly communicated. The ability of a community to accelerate the recovery process begins with its efforts in preparedness, to include coordinating whole community partners, mitigating risks, incorporating continuity planning, identifying resources, and developing capacity to effectively manage recovery, and through collaborative and inclusive planning processes. These efforts result in a more resilient community with an improved ability to withstand, respond to, and recover from disasters.

This Framework provides guidance to recovery leaders and stakeholders by:

- Identifying guiding principles for achieving successful recovery;
- Outlining pre- and post-disaster roles and responsibilities for recovery stakeholders and recommending leadership roles across all levels of government;
- Describing how the whole community will build, sustain, and coordinate the delivery of the Recovery core capabilities;
- Explaining the relationship between Recovery and the other mission areas (Prevention, Protection, Mitigation, and Response);
- Promoting inclusive and equitable coordination, planning, and information sharing processes;
- Encouraging the whole community to leverage opportunities to increase resilience and incorporate climate adaptation and mitigation measures pre- and post-disaster, such as continuity planning and land use and environmental regulations;
- Identifying scalable and adaptable organizations for coordinating recovery;
- Describing key factors, activities, and considerations for pre- and post-disaster recovery planning; and
- Ensuring recovery resources are sourced from a wide range of whole community partners, including individuals and voluntary, nonprofit, philanthropic, and private sector and governmental agencies and organizations.

Following any incident, regardless of size or scale, affected communities will have recovery needs and require access to resources that necessitate an effective management and coordination process. As national doctrine, the NDRF is always in effect and principles should be implemented pre- and post-disaster. The majority of incidents are managed by local, regional/metropolitan, state, tribal, territorial, and insular area governments without assistance from the Federal Government. The guiding principles and whole community roles, responsibilities, resources, and coordination mechanisms outlined in this Framework are equally valid for incidents that do not receive additional assistance. This Framework highlights types of recovery resources such as information for decision-

making, technical assistance, subject matter expertise, labor, and equipment, as well as coordination and funding mechanisms; and the whole community partners from which they are sourced, to include insurance companies, NGOs such as voluntary, faith-based, nonprofit, and philanthropic organizations, and government departments and agencies.

This Framework is not intended to alter or impede the ability of any local, regional/metropolitan, state, tribal, territorial, insular area, or Federal government department or agency to carry out its authorities or to comply with applicable laws, executive orders, and directives. Instead, it requires the whole community to coordinate or integrate individual authorities and missions. As the NDRF applies to all incidents, its structures and procedures apply equally to incidents where Federal support to local, regional/metropolitan, state, tribal, territorial, and insular area governments is coordinated under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) and to incidents where Federal departments and agencies exercise other authorities and responsibilities outside the Stafford Act. After the 2010 Deepwater Horizon oil spill, for example, Federal response and support was managed pursuant to the *Oil Pollution Act*. Other statutes such as the *Homeland Security Act*, *Small Business Act*, the *Farm Bill*, and the *Public Health Service Act* authorize substantive Federal assistance in response to certain types of incidents. The costs of direct Federal recovery support will continue to be borne by agencies using appropriations made for such purposes, except for those expenses authorized for reimbursement under the Stafford Act or as otherwise provided by law. When recovery requirements extend over long periods of time, steady state programs may be leveraged to support recovery efforts.

## Evolution of the NDRF

In 2009, more than 600 recovery stakeholders representing local, regional/metropolitan, state, tribal, territorial, insular area and Federal governments, as well as public and private sector organizations from across the Nation, were brought together to help inform the development of a recovery framework. The guiding principles and key elements of leadership, coordination, and pre-disaster planning identified through the national stakeholder process formed the foundation of the first edition of the NDRF published in 2011. The core principles and key concepts remain relevant and continue to guide pre- and post-disaster recovery at all levels of government. Many local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments have implemented these principles in developing pre-disaster recovery plans and incorporated exemplary coordination mechanisms following a wide range of incidents.<sup>2</sup>

In conjunction with the National Planning Frameworks for other mission areas, this document expands on the integration and interrelationships among the other mission areas of Prevention, Protection, Mitigation, and Response. It incorporates lessons learned and best practices from real-world incidents and national level exercises.<sup>3</sup> This Framework provides a strategic national perspective to enable coordination, information sharing, and increased resilience across the whole community regardless of the threat or hazard.

## Intended Audience

Although the NDRF is intended to provide guidance for the whole community, it focuses especially on the needs of those who are involved in delivering and applying the Recovery core capabilities

<sup>2</sup> Case studies can be found in the guidance document *Effective Coordination of Recovery Resources for State, Tribal, Territorial and Local Incidents* at <https://www.fema.gov/media-library/assets/documents/101940>.

<sup>3</sup> Lessons learned, innovative practices, after-action reports, plans, templates, guides, and other materials can be found on Naval Postgraduate School's Homeland Security Digital Library at [HSDL.org](https://www.hsdl.org) and on [FEMA.gov](https://www.fema.gov).



defined in the National Preparedness Goal. Recovery practitioners will find guidance on Recovery core capabilities and critical recovery functions such as leadership, organizational and coordination structures, key recovery partners, applicable resources, and inclusive public engagement and communication strategies. For stakeholders involved in Prevention, Protection, Mitigation, and Response mission areas, the NDRF identifies the objectives, principles, practices, and stakeholders that lead, manage, and guide disaster recovery. Educating a broad audience on pre- and post-disaster recovery principles, processes, and capabilities will increase resilience and further enhance integration and coordination across mission areas and the whole community.

Engaging the whole community is critical to success, and individual and community preparedness is a key component. By providing equal access to acquire and use the necessary knowledge and skills, this Framework seeks to enable the whole community to contribute to and benefit from national preparedness. This includes children<sup>4</sup>; older adults; individuals with disabilities and others with access and functional needs<sup>5</sup>; those from religious, racial, and ethnically diverse backgrounds; people with limited English proficiency; and owners of animals including household pets and service animals. Directly engaging people with different kinds of needs or disabilities in the planning process enhances national preparedness efforts. The NDRF provides a framework under which these various individuals and groups can work together and coordinate resources to support those affected by an incident, because a successful recovery requires the active commitment of the whole community.

## Scope

---

The Recovery mission area defines capabilities necessary for communities affected or threatened by any incident to rebuild infrastructure systems, provide adequate, accessible interim and long-term housing that meets the needs of all survivors, revitalize health systems (including behavioral health) and social and community services, promote economic development, and restore natural and cultural resources. The ability to manage recovery effectively begins with pre-disaster preparedness and requires support and resources focused on recovery at the immediate onset of an incident.

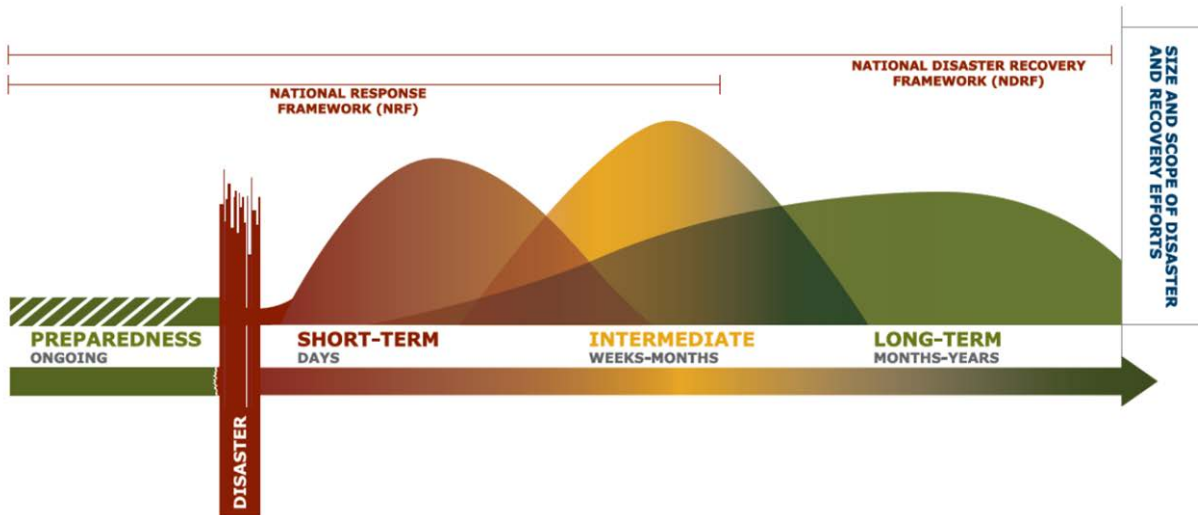
## Recovery Continuum

The recovery process is best described as a sequence of interdependent and often concurrent activities that progressively advance a community toward its planned recovery outcomes. Decisions made and priorities set by a community pre-disaster and early in the recovery process have a cascading effect on the nature, speed, and inclusiveness of recovery. Figure 1 depicts the interconnectedness of recovery activities from pre-incident through the long term.

---

<sup>4</sup> Children require a unique set of considerations across the core capabilities contained within this document. Their needs must be taken into consideration as part of any integrated planning effort.

<sup>5</sup> Individuals having access and functional needs refers to persons who may have additional needs before, during and after an incident in functional areas, including but not limited to: maintaining health, independence, communication, transportation, support, services, self-determination, and medical care. Individuals in need of additional response assistance may include those who have disabilities; live in institutionalized settings; are older adults; are children; are from diverse cultures; have limited English proficiency or are non-English speaking; or are transportation disadvantaged.



**Figure 1: Recovery Continuum**

The Recovery Continuum highlights the reality that, for a community faced with significant and widespread disaster impacts, preparedness, response, and recovery are not and cannot be separate and sequential efforts. Laying an effective foundation for recovery outcomes is a key requirement of response activities, but planning for recovery begins before response. Community-level planning for recovery is a preparedness-phase activity that strengthens continuity and response and hastens recovery. The challenge is to ensure adequate and effective coordination between different efforts and players, as the decisions and outcomes for all phases are interconnected.

An example is a major employer deciding to relocate rather than rebuild because it perceives that destroyed housing, roads, retail, and basic government services are not being restored and rebuilt timely and adequately. This outcome may have been avoided by including the employer in pre- and post-disaster recovery planning efforts and maintaining close coordination after the incident.

### *Guiding Principles*

The following subsections detail eight principles that guide Recovery core capability development and recovery support activities under the NDRF. When put into practice, these principles maximize the opportunity for achieving recovery success.

#### **Guiding Principles**

1. Individual and Family Empowerment
2. Leadership and Local Primacy
3. Pre-Disaster Recovery Planning
4. Engaged Partnerships and Inclusiveness
5. Unity of Effort
6. Timeliness and Flexibility
7. Resilience and Sustainability
8. Psychological and Emotional Recovery

### **Individual and Family Empowerment**

Successful recovery includes the ability of individuals and families to rebound from their losses in a manner that sustains their physical, emotional, social, and economic well-being, and all community

members must have equal opportunity to participate in community recovery efforts in a meaningful way. Care must be taken to assure that actions, both intentional and unintentional, do not exclude groups of people based on race, color, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity, age, or disability. Care must also be taken to identify and remove social and institutional barriers that hinder or preclude individuals with disabilities, and others in the community historically subjected to unequal treatment, from full and equal enjoyment of the programs, goods, services, activities, facilities, privileges, advantages, and accommodations provided. It is vital that all individuals, including owners and their animals (including household pets and service and assistance animals) are provided with the tools to access and use a continuum of community support and resources that addresses both the physical losses sustained and the psychological and emotional trauma experienced.

### **Leadership and Local Primacy**

Successful recovery requires informed and coordinated leadership throughout all levels of government, sectors of society, and phases of the recovery process. It recognizes that local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments have primary responsibility for the recovery of their communities and play the lead role in planning for and managing all aspects of community recovery. This is a basic, underlying principle that should not be overlooked by local, regional/metropolitan, state, tribal, territorial, insular area, and Federal, and other recovery and emergency managers. Local, regional/metropolitan, state, tribal, territorial, and insular areas act in support of their communities, evaluate their capabilities, and provide a means of support for overwhelmed local governments. The Federal Government is a partner and facilitator in recovery, prepared to quickly enhance its role when the incident impacts relate to areas where Federal jurisdiction is primary or affects national security. While acknowledging the primary role of local, regional/metropolitan, state, tribal, territorial, insular area governments, the Federal Government is prepared to provide support following a major disaster or catastrophic incident.

### **Pre-Disaster Recovery Planning**

The speed and effectiveness of recovery operations, and the resilience of outcomes associated with them, can be greatly improved through pre-disaster recovery planning. The scale and magnitude of recovery needs can also be reduced through pre-disaster actions. All stakeholders, including other mission area partners such as Response and Mitigation, need to be involved to ensure a coordinated and comprehensive planning process<sup>6</sup>, and to develop relationships that increase post-disaster collaboration and unified decision-making. Discussion and collaboration will also facilitate the development of a common definition of success. Pre-disaster recovery planning will help communities take pre- and post-disaster actions that significantly reduce future disaster impacts. By focusing on likely impacts, pre-disaster planning identifies avenues for near-term mitigation through means such as building codes that encourage disaster resilient building practices, and for long-term mitigation through reconstruction land use plans that avoid risk areas. In addition, all partners involved will work together to build and develop their collective capacity and capability to lead, plan, and manage their recovery and increase their overall resilience. Encouraging innovative pre-disaster planning practices can generate tools and resources that will support and sustain disaster mitigation and recovery efforts.

---

<sup>6</sup> Recovery specific planning guidance for local, state, tribal, and territorial governments is under development. It will be posted on <https://www.fema.gov> when published.

## Engaged Partnerships and Inclusiveness

Effective partnerships rely on an inclusive recovery management and coordination process that engages all elements of the whole community. Those who lead recovery efforts must communicate and support engagement with the whole community by developing shared goals and aligning capabilities to reduce the risk of any jurisdiction being overwhelmed in times of crisis. Layered, mutually supporting capabilities of individuals, communities, the private sector, NGOs, tribal nations, and governments at all levels allow for coordinated management and planning. Partnerships and collaboration across groups, sectors, and governments can assist affected communities in evaluating current and anticipated recovery needs and understanding how to access all available resources beyond traditional recovery programs. Engaged partnership and coalition building includes ongoing clear, consistent, effective<sup>7</sup>, accessible, and culturally appropriate communication and information sharing throughout recovery.

Engaged partnerships are vital for ensuring that all voices are heard from all parties involved in recovery and that all available resources are brought to the table. This is especially critical at the community level where nongovernmental partners in the private and nonprofit sectors play a critical role in meeting local needs. Inclusiveness in the recovery process includes individuals with disabilities and others with access and functional needs, advocates of children, older adults, members of underserved communities, and those with animals (including household pets and service and assistance animals). Engaged leadership relies on participation and involvement of all people in the whole community and ensures every community emergency management process includes people with disabilities across all committees, projects, and public gatherings. Involving people with disabilities in preparedness sets the stage and frame of mind to involve them in response, recovery, and mitigation. Sensitivity and respect for social and cultural diversity must be maintained at all times. Compliance with equal opportunity and civil rights laws must also be upheld.

## Unity of Effort

Successful recovery, as defined by the community, requires a unified coordinated effort. Recovery experiences have consistently pointed to examples of increased coordination efforts as central to efficient, effective, and timely recovery. Coordination following any incident will allow recovery leaders to identify needs and priorities more effectively, reallocate existing resources, engage traditional and nontraditional whole community partners, and identify other assistance. Since most incidents are managed at the local, regional/metropolitan, state, tribal, territorial, or insular area level, the incorporation of a coordinated effort is critical. A unity of effort respects the authority and expertise of each participating organization while coordinating support of common recovery priorities and objectives built upon consensus and a transparent and inclusive planning process.

## Timeliness and Flexibility

Successful recovery upholds the values of timeliness and flexibility in coordinating and efficiently conducting recovery activities and delivering assistance. It also minimizes delays and loss of opportunities. The process strategically sequences recovery decisions and promotes coordination across mission areas, addresses potential conflicts, builds confidence and ownership of the recovery process among all stakeholders, and ensures recovery plans, programs, policies, and practices are

---

<sup>7</sup> Information, warning, and communications associated with emergency management must ensure actionable, accessible, and effective communication, such as American (or other) Sign Language interpreters, captioning, alternative formats, computer assisted real-time translation, and other services.

adaptable to meet unforeseen, unmet, and evolving recovery needs.

## **Resilience and Sustainability**

Pre- and post-disaster recovery activities offer unique opportunities to reduce current and future risk and contribute to a more sustainable community. A successful recovery process engages in a rigorous assessment and understanding of community risks that might endanger or pose additional recovery challenges. Resilience is the ability to prepare for and adapt to changing conditions and withstand and recover rapidly from disruptions. Resilience includes the ability to withstand and recover from deliberate attacks, accidents, or naturally occurring threats or incidents. The Mitigation, Recovery, and Protection mission areas focus on the same community systems to increase resilience. Cross-mission area integration activities, such as planning, are essential to ensuring that risk avoidance and risk reduction actions are taken during the recovery process. Pre- and post-disaster recovery efforts can be leveraged to implement solutions that will increase community resilience in the economic, housing, natural and cultural resources, infrastructure, and health (including behavioral health) and social services, and government sectors.

Communities can capitalize on opportunities during rebuilding to support their sustainability and livability goals such as laying foundations for future growth; making smart energy choices; improving economic competitiveness; expanding location- and energy-efficient accessible housing choices; and enhancing healthy, safe, and walkable neighborhoods—rural, urban, or suburban. The process of pre-disaster planning can help build capacity and increase resilience and sustainability by taking a deliberate look at physical, continuity of operations, environmental, and societal risks and opportunities prior to an incident. Well planned, inclusive, coordinated, and executed solutions can build capacity and capability and enable a community to prepare for the future.

## **Psychological and Emotional Recovery**

Successful recovery addresses the full range of psychological, emotional, and behavioral health needs associated with the disaster's impact and resulting recovery challenges. Behavioral health assistance provided in recovery may include provision of information and educational resources, basic psychological support and crisis counseling, assessment, and referral to treatment when needed for more serious mental health or addiction issues. Individuals and families will be better situated to manage their recovery once their basic needs are met, such as shelter, food, and reunification with family and household pets or service and assistance animals. Successful recovery acknowledges the linkages between the recovery of individuals, families, social networks, and communities.

## **Risk Basis**

The risks faced by a community can directly impact and limit those responsible for delivering core capabilities. The whole community must maintain the ability to conduct essential functions during and immediately following an actual incident to ensure delivery of core capabilities for all mission areas. Risk identification, prevention, and mitigation must be included as an integral part of the whole community's pre-disaster recovery preparedness initiative and, when applicable, as an essential part of its pre-and post-disaster recovery plan.

To further national preparedness, this Framework encourages all communities to work with their partners and stakeholders rigorously and regularly assess continuously changing risks that may impact them. Risk assessments identify each possible risk's probability or frequency of occurrence and determine hazard-prone areas and susceptible assets within a community. An assessment will also estimate a risk's potential impact in terms of scope and severity upon life, property, built and

natural environments, essential services, critical infrastructures, and economic systems. As risks change, each community can prioritize and invest in risk reduction measures that can build capabilities to prevent, protect, mitigate, and respond to risks and impacts that most likely and severely affect it. Such investment reduces the time, effort, and cost required for any post-disaster recovery.

Results of the Strategic National Risk Assessment (SNRA), contained in the second edition of the National Preparedness Goal, indicate that a wide range of threats and hazards continue to pose a significant risk to the Nation, affirming the need for an all hazards, capability-based approach to preparedness planning. The results contained in the Goal include:

- Natural hazards, including hurricanes, earthquakes, tornadoes, droughts, wildfires, winter storms, and floods, present a significant and varied risk across the country. Climate change has the potential to cause the consequence of weather-related hazards to become more severe.
- A virulent strain of pandemic influenza could kill hundreds of thousands of Americans, affect millions more, and result in economic loss. Additional human and animal infectious diseases, including those undiscovered, may present significant risks.
- Technological and accidental hazards, such as transportation system failures, dam failures, chemical spills or releases, have the potential to cause extensive fatalities and severe economic impacts. In addition, these hazards may increase due to aging infrastructure.
- Terrorist organizations or affiliates may seek to acquire, build, and use weapons of mass destruction (WMD). Conventional terrorist attacks, including those by “lone actors” employing physical threats such as explosives and armed attacks, present a continued risk to the Nation.
- Malicious cyber activity can have catastrophic consequences, which in turn, can lead to other hazards, such as power grid failures or financial system failures. These cascading hazards increase the potential impact of cyber incidents. Cybersecurity threats exploit the increased complexity and connectivity of critical infrastructure systems, placing the Nation’s security, economy, and public safety and health at risk.
- Some incidents, such as explosives attacks or earthquakes, generally cause more localized impacts, while other incidents, such as human pandemics, may cause impacts that are dispersed throughout the Nation, thus creating different types of impacts for preparedness planners to consider.

In addition to these findings, climate change has the potential to adversely impact a number of threats and hazards. Rising sea levels, increasingly powerful storms, and heavier downpours are already contributing to an increased risk of flooding. Droughts and wildfires are becoming more frequent and severe in some areas of the country.

## **Roles and Responsibilities**

---

Successful recovery depends on all recovery stakeholders having a clear understanding of pre- and post-disaster roles and responsibilities. In keeping with the NDRF principles, clearly defined roles and responsibilities are a foundation for unity of effort among all recovery partners to jointly identify opportunities, foster partnerships, and optimize resources. This section will review the recommended roles and responsibilities of local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments as well as the recommended recovery leadership positions. Additionally, this section will address roles and responsibilities for individuals, families, and households, NGOs, and private sector entities.



The recovery management positions detailed in this section include the Local Disaster Recovery Manager (LDRM), the Tribal, Territorial, and State Disaster Recovery Coordinators (TDRC and SDRC), and the Federal Disaster Recovery Coordinator (FDRC). These positions support, manage, and organize recovery efforts on behalf of their respective government entities. The establishment of recovery coordination and leadership positions for local, regional/metropolitan, state, tribal, territorial, and insular area governments are recommendations to the whole community to facilitate recovery.

Recovery management staff in all jurisdictions have a fundamental responsibility to consider the needs of all members of the whole community, including children; individuals with disabilities and others with access and functional needs; those from religious, racial, and ethnically diverse backgrounds; and people with limited English proficiency. The potential contributions of all these individuals toward delivering core capabilities during recovery (e.g., through associations and alliances that serve these populations) should be incorporated into planning efforts.

Staff must also consider those who own or have responsibility for animals both as members of the community who may be affected by an incident and as a potential means of supporting recovery efforts. This includes those with household pets, service and assistance animals, working dogs, livestock, wildlife, exotic animals, zoo animals, research animals, and animals housed in shelters, rescue organizations, breeding facilities, and sanctuaries.

### *Ensuring Inclusion of Whole Community*

A successful recovery effort is inclusive of the whole community. Understanding legal obligations and sharing best practices when planning and implementing recovery strategies to avoid excluding groups is critical. Actions, both intentional and unintentional, that exclude groups of people based on race, color, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity, age, or disability can have long-term negative consequences on entire communities and may violate law. Those who are engaging in recovery activities are covered by specific legal obligations that prohibit discrimination. Statutory and Executive order obligations also include accessibility in architecture, transportation, housing, effective communications, employment, social services and public benefits, education, and policies and programs including those receiving Federal funding.

Relevant statutory and Executive order obligations may include:

- *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)*, as amended;
- *Post-Katrina Emergency Management Reform Act*;
- *Rehabilitation Act of 1973*, as amended;
- *Americans with Disabilities Act (ADA)*, as amended 2008;
- *Fair Housing Act of 1968*, as amended;
- *Architectural Barriers Act of 1968*;
- *Communications Act of 1934*, as amended;
- *Individuals with Disabilities Education Act (IDEA) of 1975*, as amended;
- *Title VI of the Civil Rights Act of 1964*, as amended;
- *The Age Discrimination Act of 1975*, as amended;



- Executive Order 12898 (February 11, 1994), – *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;
- Executive Order 13166 (August 11, 2000), – *Improving Access to Services for Persons with Limited English Proficiency*; and
- Executive Order 13347 (July 22, 2004), – *Individuals with Disabilities in Emergency Preparedness*.

Those applying the NDRF should be aware of statutory and Executive Order obligations involved.

### *Individuals, Families, and Households*

Individuals, families and households have a pivotal role in facilitating not only their recovery but the recovery of their community. One key action individuals and households can take is to have a disaster preparedness kit and recovery plan that addresses evacuation, sheltering-in-place, and sheltering needs. Each individual, family, and household will be better prepared in the immediate aftermath of a disaster if they build an emergency kit that includes food, water, and battery powered communication devices (see resources at [www.ready.gov](http://www.ready.gov)). Individual plans should include requirements to address the access and functional needs of all individuals who reside in the household, including children, pregnant women, older adults, people with disabilities, and pet owners and their animals, including household pets and service and assistance animals that reside in the household. Those who prepare will reduce their personal stress, be able to reach out to others in need of assistance, and be better positioned to actively contribute to post-disaster recovery planning efforts.

Homeowners who have adequate hazard and flood insurance coverage and take steps to protect their property from hazards common to their area, reduce the impacts of an incident and are less reliant on external assistance to repair or rebuild their homes. Examples of measures to reduce risk from common hazards include strengthening the existing home's structure as appropriate for the home and specific risks. Future impacts may also be reduced if individuals, families, and households integrate mitigation measures into design, repair, and rebuilding of their home. After suffering losses, survivors can maximize any benefits from insurance coverage, pursue additional funding through any available personal or loan-based resources, and also apply for local, regional/metropolitan, state, tribal, territorial, insular area, or Federal program assistance that may be available. After applying, survivors should ensure they follow up on agency requests, gain full understanding of program processes, and express unmet needs.

Individuals, families, and households are encouraged to stay aware of and participate in disaster preparedness efforts in their community and become aware of planning efforts in regards to floodplain management, building codes, and land use and environmental regulations. After an incident, individuals, families, households, are encouraged to get involved in their community's recovery activities, including providing input in the post-disaster recovery planning process.

### *Nongovernmental Organizations*

NGO are voluntary, faith-based, philanthropic, or community organizations that coordinate and collaborate to help individuals and communities respond to and recover from disasters. NGO support is provided by a range of organizations from small community-based nonprofits to national organizations with extensive experience in disaster response and recovery. NGOs provide targeted services to groups such as children, individuals with disabilities, people with access and functional needs, ethnically and culturally diverse communities, people with limited English proficiency, and

animal owners, including household pets and service and assistance animals. As NGOs are pivotal to the recovery of an affected jurisdiction, it is crucial that the whole community understands their role and that they receive timely recovery information and the resources necessary to be an active participant in the recovery process.

NGOs contribute a wealth of research and experience around issues of resilience, either by effecting change through private sector initiatives, philanthropy, and public policy, or through project-specific undertakings that result in stronger communities. In the pre-disaster setting, disaster planners work with these organizations to foster relationship building that will enable these groups to effectively engage in recovery collaboration. NGOs often have access to extended networks through local offices and chapters of the organization, providing contextually based insight and access to potential recovery partnerships and resilience champions.

Some NGOs are part of Voluntary Organizations Active in Disaster (VOAD) or Community Organizations Active in Disaster (COAD), which are responsible for meeting disaster-caused unmet needs of disaster survivors.

Examples of NGOs include:

- Voluntary organizations, 501(c)(3), with disaster response/recovery missions
- Faith-based organizations and ministerial alliances
- Community-based organizations
- Intertribal organizations
- Animal control, welfare, and/or rescue organizations
- Housing nonprofits
- Chambers of commerce and business organizations
- Environmental organizations
- Cultural organizations
- Professional organizations
- Academia
- Independent national, regional, and local advocacy, health, and social services agencies
- Fraternal organizations
- Regional planning commissions
- Planning and development districts
- National planning organizations
- Independent charities
- National and community-based foundations
- Volunteer recruitment groups
- Civic groups
- Veterans organizations
- Aging organizations

- Cross-disability organizations
- Independent national, regional, and local disability advocacy, health, support, and service agencies.

NGOs also offer expertise and assistance in a wide range of services and capabilities. Examples include volunteer coordination, communication support, feeding, long-term sheltering, alternate housing solutions, community recovery planning, case management services, short-term psychological and emotional support, respite, personal care, other medical or nonmedical supportive services, individual and systemic advocacy, spiritual care, donations management, temporary roof repair, debris removal, muck out, benefits application assistance, support group facilitation, family caregiver assistance, technical and financial support, grant writing, environmental and cultural resources, housing repair and reconstruction and rehabilitation that meets accessibility/universal accessibility standards, and project implementation.

Many NGOs have subject matter expertise and knowledge of communities and community disability adaptive/assistive equipment and other local/state resources that are valuable to local, regional/metropolitan, state, tribal, territorial, insular area, and Federal disaster preparedness and recovery planning efforts. NGOs that establish and maintain relationships with recovery leadership in the local, regional/metropolitan, state, tribal, territorial, insular area, or Federal government where they operate can articulate their resources and capabilities.

Many NGOs originate from or remain in the affected community to continue to mobilize, support and provide services. When needs are identified that fall outside the scope of one organization, these needs can be coordinated with other disaster recovery organizations, including whole community partners to ensure a unified recovery process that maximizes effectiveness of the overall effort. It will benefit local, regional/metropolitan, state, tribal, territorial, insular area, and Federal recovery efforts if NGOs actively participate in the formation of long-term recovery and community organizations or entities.

NGOs play a critical role in the implementation of an inclusive, locally led recovery organization and planning process. The expertise of NGOs means they are often well positioned to contribute to recovery efforts. Throughout the recovery process, NGOs may note milestones achieved and document best practices for their use and for the benefit of their peers. This information may also be implemented into the planning process for the state VOAD or COAD as appropriate. The experience and subject matter expertise of NGOs can greatly assist with the management of money, manpower, and materials to meet recovery needs and obligations that otherwise are not funded by government programs. In addition to collaborating on disaster planning with recovery partners, it is beneficial for NGOs to develop their own plans for how they will support disaster recovery efforts.

### *Private Sector Entities*

The private sector plays a critical role in establishing public confidence immediately after an incident. When the business community is working, the area recovers more quickly by retaining and providing jobs, goods and services and a stable tax base. A prevailing indicator of future economic recovery efforts is when local and tribal nation leadership and the business community work together during pre-disaster periods to develop recovery plans, the public is more likely to be optimistic about the community's ability to recover.

Businesses have an opportunity to participate and assume leadership roles in the local recovery planning process both before and after an incident. Private sector entities may collaborate post-incident in the form of recovery groups or task forces to effectively coordinate and communicate

business recovery issues to government and community leaders. Local businesses may participate directly or through chambers of commerce or other associations. Partnerships with other businesses can facilitate the process of identifying and navigating the assistance application processes.

It is critical that recovery officials recognize the importance of partnership and create coordination opportunities with private sector leaders during pre-disaster planning processes. Post-disaster, recovery officials need to maintain communication with the private sector about the status of operations and supply chains as well as restoration challenges and timelines. The private sector owns and operates the vast majority of the Nation's critical infrastructure systems, such as electric power and financial and telecommunications systems. These entities play a major role in the recovery of a community and a region as a whole; small businesses, for example, often shape and support the character of a community. The resources and capabilities of the private sector, including utilities, banks, insurance companies, healthcare systems, and local and tribal businesses also play an important role in encouraging mitigation and creating greater resilience (e.g., information sharing and priority setting) in a whole community. Private sector entities can also work to identify potential funding sources to be used in the event of an incident and should implement regular review and training on business continuity plans. Businesses that plan for disruption are less likely to go out of business after an incident than those that do not. Businesses need to develop continuity plans that include actionable, effective, and accessible internal communication processes and protocols to convey critical information. In some cases employers can provide volunteers, leaders, technical assistance, commodities, and facilities to support the recovery effort.

As major players in recovery efforts, businesses, especially critical infrastructure owners and operators, have an important responsibility to improve resilience by identifying risks and incorporating mitigation measures into facility design and construction accordingly. If the incident necessitates rebuilding or repair of private sector facilities or infrastructure, private sector entities have an opportunity to incorporate mitigation measures to reduce the impacts of future incidents. These actions, coupled with purchase of adequate all hazards insurance policies, will expedite recovery from disaster and build resilience.

The private sector, while often affected by disasters, can also be a major resource to the community. The resilience of the private sector in providing infrastructure services, other essential commodities, critical employment, or the color and character of a community plays the key role in the current and future viability of a community. The resilience of the private sector in the affected area works hand in hand with an effective community recovery.

Apart from being an employer, and providing access to goods and services for members of the community, the private sector often provides resources to the community to assist with disaster recovery efforts. The exact nature of the resources provided will vary from community to community and business to business, but the community investment and philanthropic nature of the private sector in a post-disaster environment should be considered during both pre- and post-disaster recovery planning processes.

## **Local Governments**

The local government has primacy in preparing for and managing the response and recovery of its community. Individuals, families, and businesses look to local governments to articulate their recovery needs. The local government leads pre-disaster recovery and mitigation planning efforts and has the primary role of planning and managing all aspects of a community's recovery post-disaster. These capabilities must be able to be delivered in a no-notice environment regardless of the threat or

hazard. Because such incidents may affect organizations' or communities' ability to accomplish these functions, continuity planning and operations need to be an inherent component of pre-disaster planning processes to ensure the continuation of each core capability and of the coordinating structures that provide them.

### Pre-Disaster

A pre-disaster recovery planning process is necessary to enable local governments to predetermine local recovery functions, roles, structures, and funding for post-disaster recovery efforts to expedite the recovery process, including planning for and training an LDRM. This will help determine how local emergency support functions work with state and Federal resources, to include Recovery Support Functions (RSF), and establish a process pre-disaster to conduct post-disaster damage assessments (i.e., train community residents and business owners, recruit post-disaster damage assessments volunteers, expand on citizen corps efforts) and to inform state officials about incident impacts. The local elected leadership (mayor/county executive) has the authority to appoint local recovery leadership that they select or that is selected by a designated recovery management organization. Training and exercise, conducted regularly, enable the local government to educate recovery partners and stakeholders about the local pre-disaster recovery plan and to ensure recovery management and leadership capacity is maintained.

Local governments need to understand key hazards and evolving risks that cause systemic and major disruptions and challenges for recovery, reconstruction, and revitalization and communicate those risks to the exposed community in an accessible and effective manner. Education on risks and hazards can occur through community mapping initiatives that visually depict or otherwise identify known susceptible geographic areas and infrastructure systems, neighborhoods/communities with limited capacity and capability, risks to environmental and/or cultural resources within a community, resource available areas, and projected post-disaster impacts. These and other education and training initiatives can help encourage individuals and households to prepare for their recovery. Ideally, local governments will plan with and not for people with disabilities. The goal is to work together, reviewing plans, agreements, and operational initiatives to ensure the whole community can build, sustain, and improve their capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. If concerns have been raised about possible deficiencies in addressing the needs of individuals with disabilities or others with access and functional needs, local governments may benefit from creating disability core advisory groups or consulting with local disability advisory organizations or nonprofits with subject matter expertise. Engaging local people with disabilities, disability advocates, service providers, and support providers brings a wide array of subject matter experts to the planning table and raises the bar for local preparedness.

The majority of mitigation measures are adopted, codified, and enforced at the local level. While there are state and Federal standards, it is often up to the local government to adopt and enforce them, or in some cases strengthen them. Examples include participating in the *National Flood Insurance Program* and enforcing building codes. Integrating hazard mitigation and pre-disaster recovery planning helps to build resilience in communities and can make those communities less vulnerable to future incidents.

### Post-Disaster

After a disaster, local governments seek to rebuild and revitalize all sectors of the community, including local critical infrastructure and essential services. Local governments also must focus on business retention and the redevelopment of housing units that are damaged or destroyed. The process of repairing and rebuilding presents an opportunity for the local government to promote and

integrate mitigation measures into recovery rebuilding strategies and plans. While some strategies can be identified pre-disaster, local governments will benefit from revising these strategies post-disaster in order to adapt to changing and long-term risks that the community faces such as climate change.

Throughout the recovery process, it is critical to find opportunities to share information with the public on the status of recovery efforts in order to maintain community coordination and focus. The local government can take the lead in ensuring that recovery needs assessment and planning processes are inclusive and accessible, often by establishing local recovery structures that address overall coordination, sectors impacted, and survivor services. Throughout the recovery planning process, it is important to document progress made towards objectives and best practices for use in future incidents. This information could be especially helpful in the context of peer-to-peer engagement opportunities with other local governments who may face similar situations post-disaster. Additionally, best practices and lessons learned are vital to guide future revisions of local plans.

Government agencies also play an important role as employers and need their own plans to protect and assist employees during emergencies. Internal communication structures can be used to inform employees about preparedness efforts that address needs for individuals and households. The incorporation of continuity planning and operations, specifically with regards to the reconstitution of an organization's leadership, staff, communications, and facilities can aid in the overall community disaster recovery process.

Local government may become overwhelmed and need staffing, recovery expertise, or other assistance after an incident. In addition, they may establish agreements and mechanisms to ensure adequate staffing and expertise is available post-disaster. They can also implement protocols or agreements that create efficiencies with local, regional/metropolitan, state, tribal, territorial, insular area, and Federal government, as appropriate, for disaster response and recovery. Disability core advisory groups can be called upon for additional local people with disabilities and others with access and functional needs to help populate community recovery groups and serve not only as inclusive community members but also as subject matter experts. Community recovery groups should have guidance about accessible facilities, effective communication access, and program access. Including local citizens as disability subject matter experts can further integrate the whole community and help recovery efforts progress. State and Federal officials are available to work with local governments in the development and implementation of their plans and recovery efforts when needed and requested.

## **Local Disaster Recovery Managers**

In order to facilitate effective and efficient local recovery, the NDRF strongly recommends that local government leaders appoint an LDRM to serve as the central manager for recovery coordination activities for the jurisdiction.

The role of the LDRM is to organize, coordinate, and advance the recovery at the local level. To effectively organize and manage recovery, this position calls for an individual with a good knowledge of management, leadership, public administration, community planning, and/or community development. In addition, the individual occupying this position should be able to represent and speak on behalf of their respective chief executive (e.g., mayor, tribal chief). The LDRM may serve as the jurisdiction's primary point of contact with the state agencies.



Ideally, the LDRM position would be filled pre-disaster. This would provide time to establish and maintain contact with recovery partners in neighboring communities as well as regionally and with state recovery agencies. The LDRM can also play a role in integrating resiliency and sustainability principles into recovery planning initiatives. LDRMs may also coordinate opportunities to train and exercise recovery plans.

In the event of a disaster, the LDRM takes the lead in coordinating local government-led recovery organizations and initiatives. LDRMs work with local emergency management to assess impacts and communicate local recovery priorities to the state and Federal governments, as well as other recovery stakeholders. The LDRM also has a role in promoting inclusion of mitigation, resilience, and sustainability measures in local recovery plans and strategies.

The LDRM works to ensure an inclusive community recovery process that engages the whole community and is accessible to all community members including individuals with disabilities, limited English proficiency, or others with access and functional needs. Throughout the recovery process, the LDRM works with recovery partners to ensure recovery activities are communicated to stakeholders as appropriate. Ideally, LDRMs will build a core recovery coordination team and actively seek subject matter experts from a wide range of disciplines to ensure a more efficient and effective recovery effort. Some specialties that are helpful include at a minimum the recovery core capabilities such as economic development, housing, infrastructure/public works, health and social services, and natural and cultural resources. In addition, the team may benefit from participation of experts in disability integration, resilience and hazard mitigation, local cultural communities, etc. An organized, inclusive recovery process facilitates a recovery plan or strategy that can be rapidly initiated and is publicly supported, actionable, and feasible based on available funding and capacity.

In order to implement recovery plans and strategies, the LDRM can collaborate with state, Federal and other stakeholders and supporters, such as the business and nonprofit communities, to raise financial support (including long-term capital investment in local businesses) for the community's recovery, leverage the resources where possible, and resolve potential duplication of assistance.

## *State, Tribal, Territorial, and Insular Area Governments*

### **State Government**

The state has a critical role in supporting local recovery efforts. Post-disaster recovery is a locally driven process, and the state supports communities by coordinating and/or providing any needed technical or financial support to help communities address recovery needs.

### **Planning**

In addition to maintaining and promoting mitigation plans and actions and implementing continuity of operations and continuity of government plans, states are also encouraged to initiate a pre-disaster recovery planning process. Pre-disaster recovery planning positions the state to effectively support local, tribal, and territorial recovery efforts. If a plan is already in place, the state may conduct exercises and training to ensure recovery partners are well versed in their roles and responsibilities.

There are numerous actions states can take pre-disaster to facilitate post-disaster recovery efforts. Many states provide technical assistance and training to local governments and NGOs on state plans, programs, and other resources for recovery and support local governments in the establishment of pre-disaster recovery leadership and coordination structures. States may create a post-disaster recovery authority that is implemented immediately and features the legal and fiscal tools needed to ensure an effective recovery process. In addition, they may establish agreements and mechanisms to



ensure adequate staffing and expertise is available post-disaster and implement protocols or agreements that create efficiencies with local, regional/metropolitan, state, tribal, territorial, insular area, and Federal government, as appropriate, for disaster response and recovery. States can also promote peer-to-peer engagement opportunities with other state and local governments to share best practices and lessons learned. The recovery planning process also presents an opportunity to reduce vulnerability to hazards; the state can develop and aid enforcement of building and accessibility codes and land use standards, and establish, organize, and coordinate goals, objectives, and timelines for recovery. Connecting recovery plans to preexisting state plans and programs can help states identify and leverage available resources.

Ideally, states establish a recovery management structure pre-disaster to facilitate organization and coordination of recovery initiatives post-disaster. This includes identifying and training leadership to manage recovery for the state (e.g., SDRC, discussed below) and creating an organization or designating agencies that will provide recovery support in priority functional areas for the state (e.g., accessible housing, social services, infrastructure). Federal agencies will adapt and align with state recovery structures. The Federal RSF structure provides a model for states to consider in their planning. It is important to review plans, policies, or initiatives already in place to help minimize conflicts and ensure alignment of priorities.

### **Assistance to Local Governments**

States assist local governments post-disaster by identifying, securing, and leveraging recovery resources and funds for local governments. States also oversee regional coordination of recovery elements, set priorities, and direct assistance where it is needed. In addition to managing federally provided resources, state governments may develop programs or secure funding (e.g., assistance acquiring appropriate insurance coverage pre-incident or issuing bonds after an incident) that can help finance and implement the recovery projects. States may also enact new or existing exemptions to state laws and/or regulations to facilitate rebuilding activities and promote safer, stronger, and smarter building and oversee volunteer and donation management in coordination with Federal partners, including Federal Emergency Management Agency (FEMA) Voluntary Agency Liaisons.

Where additional needs exist, states can reassign existing internal resources to streamline and expedite recovery, such as forming a new or ad hoc state recovery agency or reprioritizing and reallocating existing funds. Many states have programs that meet disaster-related needs, which may include the needs of survivors, businesses, affected local governments and others; these programs should be leveraged post-disaster. States also play an important role in keeping the public informed through strategic messaging, and they work with all other stakeholders to provide an information distribution process. In addition, states can assist in developing and maintaining a system to manage and monitor implementation of the recovery effort, enforce accountability, ensure accessibility, and track resources. State government agencies are also employers and need their own disaster recovery plans, including continuity of government and continuity of operations plans, to protect and assist their employees.

### **Tribal Government**

Tribes, as sovereign nations, govern and manage the safety and security of their lands and community members. Many tribal boundaries cross multiple counties and states, presenting a unique challenge in planning for response and recovery efforts. The Federal Government recognizes that the tribal right of self-government flows from the inherent sovereignty of American Indian and Alaska Native Tribes as nations and that federally recognized tribes have a unique and direct relationship

with the Federal Government. While resources from other communities and governments may be available and easily accessible for most local and state governments, this is not the case in many tribal government communities. Understanding these basic facts assists local, regional/metropolitan, state, territorial, insular area, and Federal governments when working with the sovereign tribal governments to develop and implement their recovery plans both pre- and post-disaster.

The Federal Government is required to engage in meaningful consultation with tribal governments prior to the finalization of policy or program implementation. Local and state governments are encouraged to engage with tribal governments as well (see Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*). Per *The Sandy Recovery Improvement Act* (January 29, 2013), federally recognized Indian tribal governments have the option to request a Presidential emergency or major disaster declaration independent of a state.

In addition to maintaining and promoting mitigation plans and actions and implementing continuity of operations and continuity of government plans, tribes prepare by conducting pre-disaster recovery planning. Pre-disaster planning will allow tribal governments to establish, organize, and coordinate goals, objectives, and timelines for recovery. Ideally, tribes coordinate with local, regional/metropolitan, state, other tribal, territorial, insular area, and Federal governments, as appropriate, to develop protocols or agreements that facilitate disaster response and recovery efforts. Establishing this coordination ensures that partners know the best means of communicating within the tribe and provides an opportunity to inform partners of any tribal distinctions or cultural differences to be aware of. It is essential that preservation of natural and cultural resources, sacred sites, and traditional lands be integrated into pre-disaster planning discussions and in recovery and mitigation planning efforts. To promote an inclusive recovery process, it is important for tribal governments to address the needs of individuals with disabilities, older adults, and others with access and functional needs when developing recovery plans. It is beneficial if training and exercises occur regularly to educate recovery partners and stakeholders about the tribal recovery plan and to ensure recovery leadership and management capacity is maintained.

The pre-disaster planning process enables tribal governments to establish a recovery management structure to facilitate organization and coordination of recovery initiatives post-disaster. This includes identifying, planning, and training leadership to manage recovery (e.g., TDRC, discussed below) and creating an organization or designating agencies that will provide recovery support in priority functional areas for the tribal government (e.g., housing, social services, infrastructure). Pre-disaster recovery planning will also allow tribal governments to develop a system to manage and monitor implementation of the recovery effort, enforce accountability, ensure accessibility, and track resources. Alignment with the Federal RSF structure is optimal but not required; Federal agencies will adapt and align with the tribal recovery structure.

Post-disaster, tribal governments drive the process of assessing recovery needs, setting priorities, and communicating and collaborating with local, regional/metropolitan, state, other tribal, territorial, insular area, and Federal, and nongovernmental partners to address recovery needs. The implementation of a recovery management structure, led by a TDRC to organize and manage recovery assistance, will facilitate the recovery process.

### **Territories/Insular Areas**

The roles and responsibilities of territorial and insular area governments are similar to those of a state. Their governments are responsible for coordinating resources to address actual or potential incidents. Due to their remote locations, territories and insular area governments often face unique

challenges in receiving assistance from outside the jurisdiction quickly and often request assistance from neighboring islands, other nearby countries, states, the private sector or nongovernmental resources, or the Federal Government. Federal assistance is delivered in accordance with pertinent Federal authorities (e.g., the Stafford Act and other authorities of Federal departments or agencies).

### **State, Tribal, and Territorial Disaster Recovery Coordinators**

The NDRF strongly recommends that state governors as well as tribal and territorial leaders appoint an SDRC or TDRC to lead recovery coordination activities for the jurisdiction.

The role of the SDRCs and TDRCs is to organize, coordinate, advance, and lead state or tribe-wide recovery. The SDRC/TDRC is the primary point of contact regarding recovery issues and leads the recovery organization and state/tribal-wide recovery priority setting. In addition, the individual occupying the position should be able to represent and speak on behalf of his or her respective chief executives (e.g., governor, tribal leader). The SDRC/TDRC serves as the jurisdiction's primary point of contact with the state and federal agencies and the FDRC to explore and ideally resolve unmet recovery needs. Pre-disaster, an SDRC or TDRC coordinates development, training, and exercises of the jurisdiction disaster recovery plan.

Depending on the severity of the incident and anticipated scope and duration of disaster recovery efforts, the State Coordinating Officer or Tribal Coordinating Officer may fulfill the Recovery Coordinator role under the Stafford Act. However, major disasters or catastrophic incidents often necessitate the appointment of a separate position to ensure recovery activities are well managed while extended response and short-term recovery activities are ongoing. Also, states that have experience applying this Framework have discovered advantages in appointing officials outside emergency management for this purpose; examples have included a senior official from the state economic development agency and representatives from the office of the governor.

In order to effectively organize and manage recovery, the SDRC and TDRC positions will ideally be filled by collaborative leaders with a working knowledge of and existing connections within the specific state, tribal, or territorial community, as well as a strong background in community development. Their primary role is to manage and coordinate redevelopment, revitalization, and to rebuild in a manner that engages the whole community and ensures inclusiveness in the community recovery process. This includes persons with disabilities, individuals with access and functional issues, and people with limited English proficiency. In order to effectively communicate with all stakeholders, SDRCs and TDRCs create a unified and accessible communication plan applicable to all recovery stakeholders. SDRCs and TDRCs also have a role in coordinating and leveraging state, tribal, territorial, Federal, and other funding streams for recovery efforts and communicating issues and solutions to address recovery assistance gaps and overlaps. In cases where state/territorial and tribal communities are both affected, coordination between the SDRC(s) and TDRC(s) is important.

To reduce the impact of future incidents, the SDRC and TDRC should seek integration of critical mitigation, resilience, sustainability, and accessibility-building measures into the recovery plans and efforts. Such integration can begin during the pre-disaster recovery planning process, and will be an important focus of the SDRC or TDRC post-disaster.

Recovery efforts may be adjusted or improved based on tracking of progress measures. SDRCs and TDRCs should take care to document best practices for their respective jurisdictions to inform future planning efforts, as well as to facilitate peer-to-peer sharing of experiences.

## Federal Government

Pre-disaster, Federal departments and agencies work to build capacity for all Recovery core capabilities across the Federal RSFs (see Federal Coordinating Structures) through joint planning, training, and exercises. Guidance, training, and tools are developed for local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments and NGOs on pre-disaster recovery and mitigation planning and coordination activities. The Federal Government promotes resilience through guidance and grants to reduce the impacts of disaster across the Nation in addition to encouraging, coordinating, and developing continuity plans to ensure the uninterrupted continuation of essential services and functions by governmental and private sector entities. Government agencies also play roles as employers and need to have their own plans to protect and assist their employees after emergencies. In order to leverage the lessons learned and best practices of local communities and state, tribal, and territorial governments, the Federal Government may facilitate and coordinate peer-to-peer engagement to connect those who have navigated the recovery process.

The Federal Government uses the NDRF and its coordinating structures to engage necessary and available department and agency capabilities to provide enhanced coordination and support state, territorial, tribal, and local recovery efforts when necessary. Primarily, enhanced coordination of resources and support is needed when one or more incidents occur that exceed the capacity of state, tribal, or territorial resources that are exceptionally complex, involve multiple states, or impact Federal property, other areas of primary Federal jurisdiction, or national security interests. Addressing the unique recovery need of each affected community requires a national, collaborative effort of the whole community, including Federal agencies, local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments, community members, NGOs, and the private sector.

The Federal Government's supporting role is especially important during the early weeks after a major disaster or catastrophic incident, when many local, regional/metropolitan, state, tribal, territorial, and insular area governments are overwhelmed with response and short-term recovery efforts. Federal agencies participate in and support recovery planning, capacity building, and mitigation efforts through technical assistance, expertise, or other assistance as requested and needed. The Federal Government encourages adopting recovery actions that reduce future risk from hazards and increase resilience while remaining consistent with national laws and policies. Many Federal agencies may directly or indirectly contribute to meeting recovery needs of affected communities by delivering assistance provided under their normal authorities. The duration and extent of Federal support is determined in part by the scale and enduring impacts of the incident and on the ability of the community to sustain recovery efforts on its own. The Federal Government's disaster recovery management and support systems must be scalable and adaptable so changes can be made quickly and effectively to meet the needs of each specific incident. Progress towards recovery objectives is continually evaluated and support efforts adjusted as needed to meet the needs of affected communities, states, tribes, and territories.

The Federal Government also plays an important role in providing accessible information to the public and all stakeholders involved in recovery, including information about Federal grants and loans with potential applications to recovery. In coordination with local, regional/metropolitan, state, tribal, territorial, and insular area communicators, the Federal Government is responsible for ensuring that information is distributed in an accessible manner and is well understood, so that the public, Congress, the private sector, and all stakeholders are informed and aware of the process and have realistic expectations for recovery. The Federal Government also requires that all recipients of Federal assistance comply with civil rights obligations under Section 504 of the Rehabilitation Act

and Title VI of the Civil Rights Act of 1964. Federal agencies may also facilitate provision of geospatial and data analysis support to augment local, regional/metropolitan, state, tribal, territorial, and insular area data collection and analysis efforts.

Incidents and localities vary so widely that most recovery planning must be done at and focus on the local level. Nonetheless, some regional planning, coupled with Federal guidance or standards, can ensure the most effective application of outside resources and assistance. Major disasters and catastrophic incidents often cross municipal, county, state, and tribal jurisdictions. State or national coordination encourages unity of effort among government agencies and NGOs to achieve the optimal benefit for those affected.

### **Federal Disaster Recovery Coordinator**

As needed, an FDRC is activated and deployed to implement a recovery operational coordination structure in close collaboration with local, regional/metropolitan, state, tribal, territorial, and insular area recovery leadership. The FDRC is a focal point for incorporating whole community inclusive recovery and mitigation considerations into the early decision-making processes, monitoring the impacts and results of such decisions, and evaluating the need for additional assistance and adjustments where necessary and feasible throughout the recovery. In accordance with national doctrine, the Federal agency or department that leads the recovery effort of the incident type appoints an FDRC. Depending on the situation, an FDRC may be appointed to support one state or tribe, or multiple states or tribes, to facilitate regional, or even national coordination.

The responsibilities of the FDRC are best met if the individual has an understanding of pre-disaster recovery planning as well as post-disaster recovery leadership and coordination. For example, FEMA maintains a cadre of credentialed FDRCs supporting the 10 FEMA Regions. These standing FDRCs have pre-established relationships with partners at the local, regional/metropolitan, state, tribal, territorial, insular area, and Federal levels in their region, including the private and nonprofit sectors. These standing FDRCs participate in and contribute to recovery training and exercises in their respective Regions to educate recovery partners and stakeholders about recovery planning and to ensure recovery management capacity is developed and maintained.

For emergencies and major disaster declarations under the Stafford Act, a Federal Coordinating Officer (FCO) is appointed. The FCO has primary responsibility for coordinating Federal response and recovery support to the whole community in accordance with the National Response Framework and NDRF. An FDRC may be appointed following a disaster in which enhanced recovery coordination support is needed. Once the FDRC is deployed, they work as a deputy to the FCO for all matters concerning disaster recovery. The FCO is responsible for the overall management of the Federal response to the incident. The FDRC is responsible for facilitating recovery coordination and collaboration between the Federal interagency and local, regional/metropolitan, state, tribal, territorial, and insular area governments; the private sector; and voluntary, faith-based, and community organizations. The FDRC partners with and supports the LDRM, SDRC, and TDRC to facilitate recovery. The FDRC works with Federal recovery partners to develop a strategic approach for coordinating Federal assistance and policies based on input from local, regional/metropolitan, state, tribal, territorial, and insular area government recovery partners. Throughout the recovery support process, the FDRC will ensure that progress towards strategic objectives is tracked in order to ensure Federal resources are being applied efficiently and effectively. The FDRC will collaborate with the SDRC/TDRC to communicate a clear, consistent message in multiple formats to ensure an accessible, comprehensive, and culturally and linguistically appropriate communication outreach strategy.

The FDRC will ensure that recovery support involves the whole community, promotes inclusiveness and includes recovery communications and outreach to engage all stakeholders including individuals with disabilities, people with limited English proficiency, and others with access and functional needs. In most cases when an FDRC is appointed, he or she will engage advisors to assist with coordination of key issues such as disability integration, mitigation, and Unified Federal Review.

The FDRC is the lead for the operational core capability and actively coordinates Federal RSF (see Coordinating Structures) operations and activities to focus Federal resources on the most pertinent recovery needs and to promote partnerships between the Federal Government and stakeholders at the local, regional/metropolitan, state, tribal, territorial, and insular levels. The FDRC also actively seeks to incorporate mitigation measures into recovery support efforts through partnership with internal and external partners.

### **FDRC Authority**

FDRC authority to facilitate recovery coordination and collaboration is derived from the appropriate authorities that apply to the incident. Other Federal departments and agencies carry out their authorities and responsibilities within the overarching construct of the NDRF. Nothing in the NDRF is intended to impede the ability of any Federal department or agency to take an issue of concern directly to the President or any member of the President's staff.

## Core Capabilities

The core capabilities are distinct critical elements, necessary to achieve the National Preparedness Goal, which the whole community must be able to perform. They provide a common vocabulary describing the significant functions that must be developed and executed across the whole community to ensure national preparedness.

**Table 1: Core Capabilities by Mission Area<sup>8</sup>**

| Prevention                           | Protection                                             | Mitigation                                                                                                                                             | Response                                                  | Recovery                       |
|--------------------------------------|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|--------------------------------|
| Planning                             |                                                        |                                                                                                                                                        |                                                           |                                |
| Public Information and Warning       |                                                        |                                                                                                                                                        |                                                           |                                |
| Operational Coordination             |                                                        |                                                                                                                                                        |                                                           |                                |
| Intelligence and Information Sharing |                                                        | Community Resilience<br><br>Long-term Vulnerability Reduction<br><br>Risk and Disaster Resilience Assessment<br><br>Threats and Hazards Identification | Infrastructure Systems                                    |                                |
| Interdiction and Disruption          |                                                        |                                                                                                                                                        | Critical Transportation                                   | Economic Recovery              |
| Screening, Search, and Detection     |                                                        |                                                                                                                                                        | Environmental Response/Health and Safety                  | Health and Social Services     |
| Forensics and Attribution            | Access Control and Identity Verification               | Risk and Disaster Resilience Assessment<br><br>Threats and Hazards Identification                                                                      | Fatality Management Services                              | Housing                        |
|                                      | Cybersecurity                                          |                                                                                                                                                        | Fire Management and Suppression                           | Natural and Cultural Resources |
|                                      | Physical Protective Measures                           |                                                                                                                                                        | Logistics and Supply Chain Management                     |                                |
|                                      | Risk Management for Protection Programs and Activities |                                                                                                                                                        | Mass Care Services                                        |                                |
|                                      | Supply Chain Integrity and Security                    |                                                                                                                                                        | Mass Search and Rescue Operations                         |                                |
|                                      |                                                        |                                                                                                                                                        | On-scene Security, Protection, and Law Enforcement        |                                |
|                                      |                                                        |                                                                                                                                                        | Operational Communications                                |                                |
|                                      |                                                        |                                                                                                                                                        | Public Health, Healthcare, and Emergency Medical Services |                                |
|                                      |                                                        |                                                                                                                                                        | Situational Assessment                                    |                                |
|                                      |                                                        |                                                                                                                                                        |                                                           |                                |

The Recovery core capabilities (see Table 2: Recovery Core Capabilities) are designed to address the risks identified in the SNRA, to include Economic Recovery, Health and Social Services, Housing,

<sup>8</sup> Planning, Public Information and Warning, and Operational Coordination are common to all mission areas.



Infrastructure Systems, and Natural and Cultural Resources. Planning, Public Information and Warning, and Operational Coordination are the core capabilities that cross all mission areas.

**Table 2: Recovery Core Capabilities**

|                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Planning</b>                                                                                                                                                                                                                                                                                                                                                          |
| Conduct a systematic process engaging the whole community as appropriate in the development of executable strategic, operational, and/or tactical- level approaches to meet defined objectives.                                                                                                                                                                          |
| <b>Public Information and Warning</b>                                                                                                                                                                                                                                                                                                                                    |
| Deliver coordinated, prompt, reliable, and actionable information to the whole community through the use of clear, consistent, accessible, and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard and, as appropriate, the actions being taken and the assistance being made available.                   |
| <b>Operational Coordination</b>                                                                                                                                                                                                                                                                                                                                          |
| Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.                                                                                                                                                                              |
| <b>Economic Recovery</b>                                                                                                                                                                                                                                                                                                                                                 |
| Return economic and business activities (including food and agriculture) to a healthy state and develop new business and employment opportunities that result in an economically viable community.                                                                                                                                                                       |
| <b>Health and Social Services</b>                                                                                                                                                                                                                                                                                                                                        |
| Restore and improve health and social services capabilities and networks to promote the resilience, independence, health (including behavioral health), and well-being of the whole community.                                                                                                                                                                           |
| <b>Housing</b>                                                                                                                                                                                                                                                                                                                                                           |
| Implement housing solutions that effectively support the needs of the whole community and contribute to its sustainability and resilience.                                                                                                                                                                                                                               |
| <b>Infrastructure Systems</b>                                                                                                                                                                                                                                                                                                                                            |
| Stabilize critical infrastructure functions, minimize health and safety threats, and efficiently restore and revitalize systems and services to support a viable, resilient community.                                                                                                                                                                                   |
| <b>Natural and Cultural Resources</b>                                                                                                                                                                                                                                                                                                                                    |
| Protect natural and cultural resources and historic properties through appropriate planning, mitigation, response, and recovery actions to preserve, conserve, rehabilitate, and restore them consistent with post-disaster community priorities and best practices and in compliance with applicable environmental and historic preservation laws and executive orders. |

Developing and maintaining the Recovery core capabilities within a community requires a multiagency, interdisciplinary approach that engages the whole community, including a wide range of service and resource providers and stakeholders. Actionable efforts to build capabilities should be integrated across mission areas.

## Planning

Pre- and post-disaster planning is a prerequisite for the implementation of a well-orchestrated, well-led, and inclusive recovery process at the local, regional/metropolitan, state, tribal, territorial, insular area, and Federal levels. Preparedness initiatives help set the foundation for a recovery process that is then applied post event to effectively and efficiently reach a community's disaster recovery goals. Both pre- and post-disaster recovery planning are critical for communities to develop resilience and

for successful and timely recovery. All governments have the responsibility to develop recovery strategies prior to and following an incident.

### **Pre-Disaster Recovery Planning**

Pre-disaster recovery planning enables local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments to effectively direct activities to identify roles and increase resilience. Pre-disaster plans provide a common platform to guide recovery decisions and activities and expedite a unified recovery effort. When done in conjunction with local and regional comprehensive community development and mitigation planning, pre-disaster recovery planning helps to establish roles, responsibilities, and partnerships; lay out recovery priorities and policies; incorporate hazard mitigation strategies in the wake of a disaster; and identify post-disaster processes and coordination. By integrating and coordinating planning initiatives among the other mission areas as well as across other local, regional/metropolitan, state, territorial, tribal, insular area, and Federal planning, resilience is built.

### **Community-Based Planning**

The responsibility of preparing for recovery begins with the individual and integrates with the larger responsibility of the community and local government. Community planning efforts need to reflect and involve the whole community and be supported by voluntary, faith-based community organizations; businesses; and local, regional/metropolitan, state, tribal, territorial, insular area, and Federal Governments. To support inclusiveness of all community members in pre-disaster planning, local governments employ a whole community engagement strategy that builds local resilience and promotes joint ownership of the community's recovery by all stakeholders. Local governments are required to ensure community public meetings and communications are accessible (accessibility requirements include physical accessibility, program accessibility, and effective communication access for all people); and that all information is adequate, effective, and accessible.

### **Post-Disaster Recovery Planning**

Post-disaster recovery planning supports a post event decision-making process to adapt and implement pre-disaster priorities and policies. Post-disaster community recovery planning allows local leaders and community stakeholders to make complex, community-wide decisions. The post-disaster planning process is intended, first and foremost, to guide decisions and may not automatically result in a formal plan document being produced. Planning results in establishment of community vision, goals, initiatives, programs, strategies, and/or projects. A post-disaster recovery plan document is often created when the complexity of the recovery and revitalization activities necessitates a more comprehensive process. The resulting document communicates the outcome of that complex process through an integrated plan.

Whether a formal document is created or not, a post-disaster planning process forms the foundation for optimal integration of public, private, and nongovernmental efforts across the Recovery core capabilities; the setting of recovery goals and priorities at the community level; and local management of recovery and allocation of resources. The planning process aids community leaders in setting and communicating benchmarks to measure progress toward a community defined successful outcome. All affected communities can benefit by engaging in disaster recovery planning and developing inclusive strategies that are meaningful to multiple audiences, including members of the community, potential funders, NGOs, other whole community stakeholders, and local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments.

Federal and state agencies providing support to communities will also plan post-disaster in order to organize support resources. When appointed, the FDRC and the RSFs work together to develop a federal Recovery Support Strategy to ensure a unified strategy or approach for agencies to support state, tribal, territorial, and local recovery efforts.

### Critical Tasks

- Convene the core of an inclusive whole community planning team, identified pre-disaster, which will oversee disaster recovery planning process and activities to reduce recovery risk and increase resilience.
- Develop a unified approach to making investments in resilient infrastructure to enable communities to withstand the effects of a disaster, respond effectively, recover quickly, adapt to changing conditions, and manage future disaster risk.
- Complete an initial recovery planning process that provides an overall strategy for recovery, including operational and tactical level approaches.
- Address all Recovery core capabilities and integrate socioeconomic, demographic, accessibility, and risk assessment considerations in recovery planning processes and strategies.
- Identify achievable, tangible community based recovery actions and activities that support the community's identified recovery goals.
- Coordinate planning efforts across jurisdictional boundaries.

### Public Information and Warning

In a disaster recovery environment, local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments, the private sector, NGOs, and Federal agencies work together to provide coordinated, prompt, reliable, and actionable information to the whole community to support recovery. Public information messaging helps manage expectations throughout the recovery process and supports the development of local, regional/metropolitan, state, tribal, territorial, insular area, and Federal government communications plans. Public information/communications managers use an inclusive process that ensures accessibility to all, including individuals with disabilities, those with limited English proficiency, and others with access and functional needs. Public warning about incidents and emergencies must be varied because people with similar or even the same disabilities do not always have similar capabilities to receive information. Information should be provided using American (or other) Sign Language, captioning, and computer assisted real-time translation. State and local governments should develop plans for immediate access to American Sign Language (ASL) interpreters for use as an incident is unfolding. This is especially critical in no-notice incidents where emergency messaging is critical. When state or local officials go on the air for the first time following an incident, ASL (and possibly other language sign language interpreters) should be shown on television in a split-screen fashion so people who are deaf get real-time and same-time information with others in the community. Open Captioning should be included because not all people who are deaf use ASL. Printed material should be provided in alternative formats including Braille, electronic media, or a format requested by a person with a disability. People charged with communicating disaster messages to the public must remember the critical issue is not getting the message out but making sure the message that goes out is one all members of the whole community can take action on.

Effective public information practices are two-way, that is, they will ensure affected residents, including those temporarily displaced due to the incident, have the opportunity to communicate with

community leaders and provide input into recovery management planning and decisions. This ensures stakeholders have a clear understanding of available assistance and their own roles and responsibilities, makes clear the requirements and time needed to achieve recovery, and includes information and referral help lines, websites, social media, smartphone applications, kiosks, and other media and websites for recovery resources.

### **Critical Tasks**

- Develop communications strategy to ensure stakeholders have a clear understanding of the available assistance and their own roles and responsibilities throughout the recovery process.
- Manage expectations through clarity, accuracy, and transparency.
- Ensure information is in accessible formats for the whole community, including individuals with disabilities and others with access and functional needs, and owners and their animals (including household pets and service and assistance animals).
- Provide achievable, tangible recovery goals to local and other audiences; follow up with progress reports, as appropriate.

### **Operational Coordination**

Pre- and post-disaster Operational Coordination crosses all mission areas and is critical to efficient and effective recovery activities. The effects of the incident will present unique challenges and require different approaches in which leadership will play a key role in building the confidence of the community and addressing impacts in an effective manner. Successful recovery requires informed and coordinated leadership throughout all levels of government, sectors of society, and phases of the recovery process through meaningful coalition building.

Local, regional/metropolitan, state, tribal, territorial, and insular area governments have primary responsibility for the recovery of their communities and will need leadership and coordination mechanisms in place in order to effectively assess and evaluate recovery issues, determine priorities, engage partners, identify and coordinate key resources, and implement recovery strategies. Engaging all stakeholders under an appropriately scaled coordination structure will increase the capacity of any single agency to partner and facilitate recovery in support of local, regional/metropolitan, state, tribal, territorial, insular area, and Federal priorities. It will also enhance access to recovery resources, including information sharing, technical assistance, subject matter expertise, and potential funding opportunities.

The Operational Coordination core capability leads cross-sector, cross-capability integration to ensure universal goals such as resilience, healthy communities, and inclusiveness are addressed across all functional areas.

Operational Coordination enables operational functioning and promotes more effective use of resources, information sharing, and the collaboration of whole community partners, to include all levels of government, private sector, nonprofit organizations, business and faith-based communities, individuals, and households, including people with disabilities, others with access and functional needs, and owners and their animals (including household pets and service and assistance animals). This capability involves national, regional, and field-level operations to coordinate ongoing recovery operations.

## Critical Tasks

- Lead, coordinate, and drive the recovery process.
- Coordinate and leverage Recovery core capability resources.
- Integrate the interests of the whole community into ongoing recovery efforts and future initiatives.
- Ensure cross-mission and cross-capability integration through information sharing and coordination.
- Establish mechanisms to more effectively engage whole community partners.
- Improve future operational coordination through continual process improvements.

## Economic Recovery

The Economic Recovery core capability integrates the expertise and resources of agencies and organizations, both governmental and private sector, to facilitate the pre- and post-disaster efforts of individuals; local, regional/metropolitan, state, tribal, territorial, insular area and Federal governments; and the private sector to sustain and/or rebuild businesses and employment and to develop economic opportunities that result in inclusive, economically viable communities.

Economic recovery is driven by a multitude of complex and interconnected components. The contributions of the public sector, nonprofits, and the private sector collectively absorb costs borne from the incident and take active steps to reestablish the local economy. The role of the private sector in economic recovery cannot be understated, as they not only serve critical rebuilding needs, but their active participation in recovery planning efforts enriches the community recovery, encouraging further inclusiveness and effectiveness. The capacity of the community, region, and state to address economic recovery challenges can be significantly enhanced by promoting pre-disaster recovery planning. The economic recovery needs of local businesses, individuals, nonprofits, and governments after an incident are often temporal in nature, and tend to shift as time progresses. Too often recovery efforts focus on providing assistance for issues that have since lapsed in criticality and priority, effectively becoming “too little, too late” to be consequential. Pre-disaster recovery planning can dramatically reduce the time needed to meet economic recovery challenges by thoroughly engaging economic recovery stakeholders and their networks and leveraging existing resources.

After an incident, the economic Recovery core capability is best characterized as promoting coordination, integration, and collaboration among the economic recovery stakeholders of the affected area to support individual decision-making and leverage existing resources. Common stakeholders in this effort include chambers of commerce, economic and workforce development organizations, local governments, and regional planning organizations. Each of these organizations has a day-to-day responsibility to support economic development, workforce development, or business well-being in their community. An incident necessitates a heightened focus of their efforts to ameliorate the direct and indirect effects of the incident, to include impacts to the health sector of the local economy. Common issues often center on capital access and uncertainty issues—capital access needed for rebuilding for household, business, and local government—uncertainty driven by unknown impacts, future market conditions, and outcome of rebuilding efforts, often stymies action. Local, regional, state, and tribal organizations and Federal agencies coordinate the delivery and application of available resources to support local and state economic recovery priorities.

## **Critical Tasks**

- Share, aggregate, and integrate economic impact data to assess economic issues and identify potential inhibitors to fostering stabilization of the affected communities.
- Implement economic recovery strategies that integrate the capabilities of the private sector, enable strong information sharing, and facilitate robust problem solving among economic recovery stakeholders.
- Ensure the community recovery and mitigation plan(s) incorporate economic recovery and remove inhibitors to post-incident economic resilience, while maintaining the rights of all individuals.

## **Health and Social Services**

Timely restoration of health systems (i.e., hospitals, dialysis centers, etc.) and social services (i.e., child care, Head Start providers, etc.) is critical to a community's recovery and requires a unified effort from all partners and stakeholders in the affected region. These partners and stakeholders include government agencies; aging, disability, nonprofit, voluntary, faith-based, and community organizations; for-profit businesses; service providers; and individuals and families accessing services—the whole community. By working together in an inclusive planning process, recovery stakeholders can identify pre-disaster deficits, assess incident-related impacts, target appropriate resources for pre-and post-disaster activities, and develop strategies to promote the health and well-being of affected individuals and communities to foster community resilience.

The Health and Social Services core capability includes anticipated incident impacts to health care services, social services, behavioral health services, and environmental and public health, as well as food and medical supply safety, children in disasters, and long-term health issues specific to responders.

## **Critical Tasks**

- Identify affected populations, groups and key partners in recovery.
- Complete an assessment of community health and social service needs; prioritize these needs based on the whole community's input and participation in the recovery planning process; and develop a comprehensive recovery timeline that includes consideration of available human and budgetary resources.
- Restore health care (including behavioral health), public health, and social services functions.
- Restore and improve the resilience and sustainability of the health care system and social service capabilities and networks to promote the independence and well-being of community members in accordance with the specified recovery timeline.
- Implement strategies to protect the health and safety of the public and recovery workers from the effects of a post-disaster environment.

## **Housing**

The Housing core capability develops realistic accessible and affordable temporary and permanent housing options consistent with principles that are in line with and linked to existing long-term community plans and processes. Across all incidents, the Housing core capability will actively support development of permanent housing options within existing resources and statutory and

regulatory authorities.

The core capability for housing is the ability to implement safe and healthy housing solutions that effectively support the needs of the whole community and contribute to its sustainability and resilience by ensuring community leadership and planners focus on adequate, affordable, and universally accessible housing. Housing is a critical and often challenging component of disaster recovery. It is critical because local economies cannot recover from disasters without adequate housing, especially affordable and accessible housing. It is challenging because many years' worth of housing repair, rehabilitation, reconstruction, and new construction often need to occur at an accelerated pace as a result of an incident, and funding may not be available to fully support a community's housing needs, especially affordable and accessible housing. The immediate need to rebuild and the lack of resources readily available create design, construction, labor, materials, logistics, inspection, and financing issues.

### Critical Tasks

- Assess preliminary housing impacts and pre- and post-disaster needs, identify available options for temporary housing, and support the local development of the plan for permanent housing.
- Address affordable, accessible, and workforce housing needs in community planning efforts.
- Address interim housing needs, assess options for permanent housing, and define an achievable timeline for achieving a resilient, accessible, and sustainable housing market in community recovery plans.
- Meet the resilient and sustainable permanent housing needs of the community, including the need for accessible housing and housing options for owners and their household pets within a specified timeframe.

### Infrastructure Systems

The Infrastructure Systems core capability integrates the efforts of the owners and operators of public and private infrastructure. It is the extension of steady state operations and maintenance that, in some situations, defines new construction and system upgrade projects.

The goal of the recovery process is to match the post-disaster infrastructure to the community's projected demand on its built and virtual environment. Such a goal should be developed using existing public-private collaborative structures such as those outlined in the National Infrastructure Protection Plan. Resource owners play the primary role in including resilience pre- and post-disaster activities and identifying the greatest vulnerabilities in terms of their systems and the people and businesses they serve. Those processes ensure that options for protection have been explored and implemented to the maximum extent possible. Infrastructure Systems core capability partners promote planning through their networks. Communities that engage in highly inclusive, public-private planning efforts are generally able to function better before, during, and after an incident. Additionally, mitigation efforts help to minimize disaster consequences and put structures in position to recover more effectively.

The Infrastructure Systems recovery effort is first and foremost about maintaining continuous customer service. This necessitates workarounds and patches that must be engineered in conjunction with the permanent work. The principal driver for this complex effort is the empowerment of the whole community. The Infrastructure Systems partners focus on this by sharing information, identifying/leveraging resources, and promoting common objectives. The mission of infrastructure



support begins during the initial response and continues by providing support to the recovery as long-term activities increase. The public and private entities involved provide technical assistance and regulatory easements as well as funded programs.

### **Critical Tasks**

- Facilitate the restoration of and sustain essential services (public and private) to maintain community functionality.
- Coordinate planning for infrastructure redevelopment at the regional, system-wide level.
- Develop a plan with a specified timeline for developing, redeveloping, and enhancing community infrastructures to contribute to resilience, accessibility, and sustainability.
- Provide systems that meet the community needs while minimizing service disruption during restoration within the specified timeline in the recovery plan.

### **Natural and Cultural Resources**

The Natural and Cultural Resources (NCR) core capability integrates the expertise and resources of all individuals; local, regional/metropolitan, state, tribal, territorial, insular area, and Federal governments; other natural and cultural resource stakeholders such as nongovernmental, nonprofit, and voluntary organizations; and private sector entities to preserve, protect, and restore the affected community's natural and cultural resources and historic properties in a way that is inclusive, sustainable, and resilient.

Resource caretakers play the primary role identifying each community's natural and cultural treasures and ensuring that options for their protection have been explored and implemented to the maximum extent possible. It is critical to prioritize these efforts when resources are limited. NCR core capability partners can promote pre-disaster planning through their networks. Communities that engage in highly inclusive, public-private planning and preparedness efforts are generally able to function better before, during, and after an incident. Additionally, mitigation efforts, such as identifying vulnerabilities and reducing risks by considering environmentally friendly measures, help to minimize disaster consequences and expedite recovery.

The NCR recovery effort is first and foremost a preservation operation. By definition, natural and cultural resources are unique and often fragile and must be protected/conserved, since restoring or replacing them may be impossible. The principal driver for any preservation and/or restoration effort is the empowerment of the whole community. NCR partners focus on this by engaging the whole community and improving information sharing, identifying/leveraging resources, and promoting common objectives.

The delivery of the NCR core capability builds from the pre-disaster activities of individuals and groups dedicated to natural and cultural resource well-being. These include those who earn a living from them to those who enjoy them for what they are. When incidents are imminent or occur, the NCR core capability partners concentrate on protection, then minimization and/or mitigation of impacts to NCR, then restoration, and finally realizing opportunities to rebuild a more sustainable and resilient community.

## Critical Tasks

- Implement measures to protect and stabilize records and culturally significant documents, objects, and structures.
- Mitigate the impacts to and stabilize the natural and cultural resources and conduct a preliminary assessment of the impacts that identifies protections that need to be in place during stabilization through recovery.
- Complete an assessment of affected natural and cultural resources and develop a timeline that includes consideration of available human and budgetary resources for addressing these impacts in a sustainable and resilient manner.
- Preserve natural and cultural resources as part of an overall community recovery that is achieved through the coordinated efforts of natural and cultural resource experts and the recovery team in accordance with the specified timeline in the recovery plan.

## Coordinating Structures and Integration

Recovery leadership will need an effective coordination structure in place to assess and evaluate recovery issues, determine priorities, engage partners, and identify and coordinate key resources. Engaging all stakeholders under an appropriately scaled coordination structure will increase the capacity of any single agency to partner and facilitate recovery in support of local, regional, state, tribal, and territorial priorities. It will also enhance access to recovery resources, including information sharing, technical assistance, subject matter expertise, and potential funding opportunities.

Various options for a recovery coordination structure exist—what works in one place may not work in another. Different models exist for developing coordination structures and mechanisms, but they are not mutually exclusive; concepts can be integrated and used in a variety of ways, depending on what works best for the local, regional/metropolitan, state, tribal, territorial, or insular area government.

The Federal Government and many state and local governments use RSF to coordinate key functional areas of recovery support. RSFs bring together departments and agencies and many other supporting organizations—including stakeholders not traditionally associated with emergency management—to focus on the recovery needs. The Federal Emergency Support Functions (ESF) are the primary, but not exclusive, Federal coordinating structures for building, sustaining, and delivering the response core capabilities. The ESFs are vital structures for responding to Stafford Act disasters; however, they may also be used for other incidents. State and Federal coordinating structures should ensure that planning includes efforts to coordinate ESF and RSF activities and highlight linkages between them.

Identifying a recovery coordination structure is a critical milestone in managing an effective, efficient, and equitable recovery process. The earlier these milestones are reached in the recovery coordination process, the more time stakeholders will have to collaborate and leverage resources, rather than duplicate efforts.<sup>9</sup>

<sup>9</sup> For more information on recovery coordination, FEMA's *Effective Coordination for State, Tribal, Territorial, and Local Incidents* guide can be found at <https://www.fema.gov/media-library/assets/documents/101940>.

## NGOs' Coordinating Structures

NGOs may work as standalone entities or convene in a variety of different forums to strengthen partnerships, coordinate on activities, collaborate on plans, and ensure that communication is occurring internally and externally to their partners. These coordinating structures may be active during steady state and/or during disaster operations and be engaged in the different mission areas of preparedness: response, recovery, and mitigation. The following are a few examples of NGO coordinating structures:

- **Voluntary Organizations Active in Disaster.** VOADs are present at national, state, and sub-state levels. The National VOAD member agencies provide skilled direct services along the continuum of preparedness mission areas, from pre-disaster through the longest-term recovery. These member agencies provide their services through comprehensive, coordinated volunteer resources in partnership with emergency managers. This cooperative effort has proven to be the most effective way for a wide variety of volunteers and organizations to work together in a crisis.
  - *State VOADs work pre-disaster to promote training and preparedness.* They work post-disaster to facilitate coordination of response and recovery efforts to assist in immediate coordination of voluntary agency response. At the state level, the VOAD may include local member agencies that do not have a national program. The state VOAD often serves as advocate and liaison between member agencies and the state government agencies.
- **Long-Term Recovery Groups/Interfaith Roundtable.** After a disaster occurs and with the assistance of FEMA Voluntary Agency Liaisons or members of National VOAD, the local faith community, government, voluntary organizations, individuals, and many other community members form a committee to help address items that arise as a direct result of a disaster. Examples include donations management, volunteer management, media communications, case management, and other issues.

No matter how a group is structured or what it calls itself—unmet needs committee, interfaith, organization, coalition, roundtable, partnership, coordinating council, etc.—the goal is the same: to unite recovery resources with community needs to ensure that even the most vulnerable in the community recover from disaster. The Unmet Needs Committee may also be a subset of these local groups, and in coordination with organizations providing case management services to disaster survivors, may extend years into recovery.

- *Unmet Needs Committee.* Disaster survivors may have recovery needs that cannot be fully met by traditional government programs due to eligibility or program limitations. The Unmet Needs Committee is comprised of organizations that bring monetary, in-kind, or support and service resources and may be able to fill an unmet need of individuals, families, and households. Community needs may arise in this forum, but are better addressed and coordinated through the planning capabilities of community planners. Private sector, local, voluntary, community, and faith-based organizations may identify and coordinate resources among each other to meet the identified needs. Early identification of issues and establishment of long-term case management is critical to addressing unmet needs. Case managers perform due diligence on each disaster survivor's case to avoid duplication of benefits and services, and the case is then presented to the Unmet Needs Committee. The organizations then collaborate on if and how they will fill the need for assistance. This funding committee is coordinated to support whatever disaster case management program, be it Federal or local community based, is determined.

- Typical areas of enduring need after a disaster include long-term mental and behavioral health concerns for children and adults in relation to traumatic events induced or exacerbated by the incident; transportation for and during relocation; long-term housing, including housing that recognizes the need for accessibility and affordability; children's stability within schools and child care settings; investigation of underinsured properties; affordability of home repairs or insurance deductibles; legal services; middle-class families who are outside the purview of traditional poverty relief or may be either ineligible or unaware of programs offered through agencies that assist the poor; and accessible financial assistance, including low-interest loans and nonmedical supportive services, including respite and other family caregiver assistance.
- **Community Organizations Active in Disaster.** Some communities develop COADs, which are coalitions of organizations based within a community or geographic area and composed of representatives from public, private, and not-for-profit agencies. A COAD will enhance the community's ability to mitigate, prepare, respond, and recover from disasters, helping to evaluate and address the human needs inherent in an incident.
    - COADs may be considered the successors to Unmet Needs Committees because they represent many human services providers and a concern for the relief and recovery of survivors of disasters. The similarity, however, ends there—COADs have a much broader mission to strengthen area-wide disaster coordination by sharing programs, policies, information, joint planning and training. COADs will be active in all areas of emergency management.

## Local Coordinating Structures

Local jurisdictions implement a variety of coordination structures pre- and post-disaster to help identify risks, establish relationships, and organize and build capabilities to effectively manage recovery. Due to the unique partnerships, geographic conditions, and threats each jurisdiction faces, as well as the capabilities of each jurisdiction, the coordinating structures at the local level will vary. Local communities have specific cultures, values, norms, and laws that reflect their history, residents, and geography. Coordination structures will build upon, rather than replace, the existing local organizations and entities within the community. Examples of possible local recovery coordination structures include establishing a task force(s) or setting up a recovery committee. These structures organize and integrate their capabilities and resources with neighboring jurisdictions, the state, tribes, the private sector, and NGOs. Ideally, the local coordination structure should be coordinated by an LDRM where possible, to best integrate with state, tribal, territorial and Federal structures (see Local Disaster Recovery Managers).

## State/Territorial Coordinating Structures

States and territories leverage the capabilities and resources of partners across the state when identifying needs and building capabilities for recovery. Much like the local coordination structures, the state and territorial structures will also vary greatly depending on factors such as geography, population, industry, and culture. State and territorial statutes will also be a consideration in defining a structure that meets the needs of the state, specifically in determining interaction with local jurisdictions throughout recovery. The capacity of local jurisdictions within a state or territory to lead, manage, and plan for recovery will be a factor in the state structure that works most effectively. One size will not fit all states, and what works in one state may not work for another. State and territorial structures are designed to leverage appropriate representatives from across the whole community, some of whom may also participate in local or regional coordinating structures.

Examples of possible state coordination structures include adopting RSFs, Governor’s Commission, state agency task force, and a state office (legislatively appointed). Previous experience of states integrating with the Federal recovery structure suggests that they often find it beneficial to place recovery leadership in a different agency from the one that is leading the response. A state or territorial structure, however it is organized, is coordinated by an SDRC/TDRC or similar senior official (see State, Tribal, and Territorial Disaster Recovery Coordinators).

### *Tribal Coordinating Structures*

Tribal nations<sup>10</sup> work internally, as well as with local, regional/metropolitan, state, other tribal, territorial, insular area and Federal counterparts in recovery. Each tribe is unique in many aspects including native language, population size, reservations that cross multiple state lines, (e.g., the Navajo Nation spans Utah, Colorado, New Mexico, and Arizona), cultural norms, political and legal structures, available resources, and relationships with surrounding jurisdictions. All of these factors influence the tribal coordination structure that will be most effective. Tribes will interact directly with the Federal Government, but will also need to interact with the local and state governments surrounding tribal lands, and may engage with other private-sector and nongovernmental partners as well. A TDRC or similar senior official is responsible for coordinating whatever structure is established (see State, Tribal, and Territorial Disaster Recovery Coordinators).

### *Federal Coordinating Structures*

The Federal RSFs comprise the NDRF coordinating structure for key functional areas of assistance. Their purpose is to support local, regional/metropolitan, state, tribal, territorial, and insular area governments by facilitating problem solving, improving access to resources, integrating principles of resilience, sustainability, and mitigation, and fostering coordination among state, tribal, territorial, and Federal agencies, nongovernmental partners, and other stakeholders.

Under the direction of the FDRC, the principal official responsible for integration of expertise across Federal programs, the RSFs bring together the knowledge, experience, skills, and resources of Federal departments and agencies and other supporting organizations to focus on recovery issues and needs. The RSFs are organized into six functional components by core capability and are brought together through coordination with relevant stakeholders and experts during pre-disaster planning and when activated post-disaster to identify and resolve recovery challenges. The six RSFs include Community Planning and Capacity Building; Economic Recovery; Health and Social Services; Housing; Infrastructure Systems; and Natural and Cultural Resources and are described in Table 3: Recovery Support Functions. Each RSF is headed by a coordinating agency, under which supporting agencies and entities provide subject matter expertise for a particular sector or issue. Supporting agencies appear across multiple RSFs. RSFs and stakeholders organize and request assistance and/or contribute resources and solutions. Together, these RSFs help facilitate stakeholder participation and promote intergovernmental and public-private partnerships.

This Framework is not intended to impose new, additional, or unfunded net resource requirements on Federal agencies. Instead, the NDRF aims to leverage and concentrate the effects of existing Federal resources, programs, projects, and activities through an organization of RSFs to promote effective recovery for affected areas pre- and post-disaster. FEMA facilitates inter-RSF coordination at the national level. And the FDRC facilitates the inter-RSF coordination at the Regional and field levels.

---

<sup>10</sup> See [Tribal Government https://www.fema.gov/media-library/assets/documents/32279](https://www.fema.gov/media-library/assets/documents/32279)

Each of the RSF member agencies brings subject matter expertise, authorities, and resources to the table. The Recovery Federal Interagency Operational Plan (FIOP) includes Annexes for each core capability and can be found at [www.fema.gov](http://www.fema.gov). The Annexes include how agencies collaborate through the RSF coordinating structures to help increase community resilience by ensuring cost-effective and efficient delivery of core capabilities and assistance. The Annexes also define how risk information and risk reduction technical expertise will be integrated into core capability delivery efforts in support of recovery, including promotion of the use of the most appropriate and cost-effective practices during recovery.

Each RSF has a designated coordinating agency along with primary agencies and supporting organizations with programs relevant to the functional area. Each RSF Coordinating Agency designates a senior-level principal to serve as the RSF National Coordinator, provides significant engagement and management for the RSF, and encourages ongoing communication and coordination between the primary agencies and support organizations for the RSFs and between the Federal agencies. Primary agencies are designated on the basis of their authorities, resources, and capabilities as well as supporting agencies which may bring relevant subject matter expertise and technical assistance as needed.<sup>11</sup>

The Federal Government and many state governments organize their response resources and capabilities under the ESF construct. ESFs have proven to be an effective way to coordinate and manage resources to deliver the Response core capabilities. The Federal ESFs are the primary, but not exclusive, Federal coordinating structures for building, sustaining, and delivering the response core capabilities. The ESFs are vital structures for responding to incidents of varying sizes and scope.

Similar to the RSFs, the Federal ESFs bring together the capabilities of Federal departments and agencies and other assets. ESFs are not based on the capabilities of a single department or agency, and the functions for which they are responsible cannot be accomplished by any single department or agency. Instead, Federal ESFs are groups of organizations that work together to deliver core capabilities and support an effective response.

Because of the natural relationship between response and recovery efforts and the fact that response and recovery activities often occur simultaneously, the responsibilities of some ESFs correspond and integrate with the responsibilities of RSFs. The RSFs frequently build on the ESF resources and the short-term recovery efforts applied by the ESFs to meet basic human needs to integrate short-term recovery efforts with recovery needs. Recovery cannot wait until those occupied with response and short-term recovery activities have time and space to start thinking about recovery. A discrete and well-resourced recovery focus, operating at the same time as response activities, is established to ensure that communities wrapping up response activities are positioned to find themselves ahead of the curve in organizing and planning for major reconstruction and redevelopment necessary for recovery. Early in recovery, the FDRC, SDRC, TDRC, LDRMs, and the RSF coordinators are working closely with ESF leads to share information about impacts, assistance provided, and working relationships at all levels. The shift from response to recovery activities depends on the nature of the activity, and may vary considerably between RSFs. In light of this fact, while there is a gradual ramping down of ESF activity as operations transition from response to recovery, there will often be a continuing presence of select ESF activity once RSFs are fully engaged in the recovery

---

<sup>11</sup> Note that the primary mission of the U.S. Department of Defense (DoD) and its components is national defense. DoD resources are committed only after a request from a federal agency and approval by the Secretary of Defense, or at the direction of the President. When DoD military and civilian personnel and resources are authorized to support civil authorities, command of those forces remains with the Secretary of Defense.



mission.

It is essential to the success of the NDRF that all partners address responsibilities across the recovery continuum, including preparedness, mitigation, and development activities as well as post-disaster stabilization and recovery actions. The relationships and integration between the RSFs and the coordinating structures of other mission areas at the Federal level are detailed in the FIOPs.

**Table 3: Recovery Support Functions**

| <b>Community Planning and Capacity Building</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Community Planning and Capacity Building RSF unifies and coordinates expertise and assistance programs from across the Federal Government as well as nongovernment partners to aid local and tribal governments in building their local capabilities to effectively plan for and manage recovery and engage the whole community in the recovery planning process.</p>                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>Coordinating Agency:</b> Department of Homeland Security/FEMA</p> <p><b>Primary Agencies:</b> FEMA; Department of Housing and Urban Development</p> <p><b>Supporting Organizations:</b> American Red Cross; Corporation for National and Community Service; Delta Regional Authority; Department of Agriculture; Department of Commerce; Department of Education; Department of Health and Human Services; Department of Homeland Security; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Transportation; Environmental Protection Agency; General Services Administration; National Voluntary Organizations Active in Disaster; Small Business Administration; U.S. Access Board; U.S. Army Corps of Engineers</p> |
| <b>Economic Recovery</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>Economic Recovery is the ability to return economic and business activities (including agricultural) to a state of health and develop new economic opportunities that result in a sustainable and economically viable community. The Economic Recovery RSF integrates the expertise of the Federal Government to help local, regional/metropolitan, state, tribal, territorial, and insular area governments and the private sector sustain and/or rebuild businesses and employment and develop economic opportunities that result in sustainable and economically resilient communities after an incident.</p>                                                                                                                                                                       |
| <p><b>Coordinating Agency:</b> Department of Commerce</p> <p><b>Primary Agencies:</b> Department of Agriculture; Department of Commerce; Department of Homeland Security; Department of Labor; Department of the Treasury; Federal Emergency Management Agency; Small Business Administration</p> <p><b>Supporting Organizations:</b> Corporation for National and Community Service; Delta Regional Authority; Department of Health and Human Services; Department of Housing and Urban Development; Department of the Interior; Environmental Protection Agency; General Services Administration; Department of State</p>                                                                                                                                                               |



## Health and Social Services

Healthcare is an economic driver in many communities, which if damaged make this sector critical to most communities' disaster recovery. Social Services have a major impact on the ability of a community to recover. The support of social services programs for at-risk and vulnerable children, individuals, and families affected by a disaster can promote a more effective and rapid recovery. The Health and Social Services RSF outlines the Federal framework to support locally led recovery efforts to address public health, health care facilities and coalitions, and essential social services needs. Displaced individuals in need of housing will also need health and social services support.

### **Coordinating Agency: Department of Health and Human Services**

**Primary Agencies:** Corporation for National and Community Service; Department of Agriculture; Department of Commerce; Department of Homeland Security/National Protection and Programs Directorate; Department of Homeland Security/Office for Civil Rights and Civil Liberties; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Environmental Protection Agency; Federal Emergency Management Agency

**Supporting Organizations:** American Red Cross; Department of Education; Department of Transportation; Department of the Treasury; Department of Veterans Affairs; National Voluntary Organizations Active in Disaster; Small Business Administration

## Housing

The Housing RSF coordinates and facilitates the delivery of Federal resources to implement housing solutions that effectively support the needs of the whole community and contribute to its sustainability and resilience. Housing is a critical and often challenging component of disaster recovery, but must be adequate, affordable, and accessible to make a difference for the whole community.

### **Coordinating Agency: Department of Housing and Urban Development**

**Primary Agencies:** Department of Agriculture; Department of Justice; Department of Housing and Urban Development; Federal Emergency Management Agency

**Supporting Organizations:** American Red Cross; Corporation for National and Community Service; Department of Commerce; Department of Energy; Department of Health and Human Services; Department of Veterans Affairs; Environmental Protection Agency; General Services Administration; National Voluntary Organizations Active in Disaster; Small Business Administration; U.S. Access Board

### Infrastructure Systems

The Infrastructure Systems RSF works to efficiently facilitate the restoration of infrastructure systems and services to support a viable, sustainable community and improves resilience to and protection from future hazards.

**Coordinating Agency:** U.S. Army Corps of Engineers

**Primary Agencies:** Department of Energy; Department of Homeland Security; Department of Transportation; Federal Emergency Management Agency; U.S. Army Corps of Engineers

**Supporting Organizations:** Delta Regional Authority; Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Health and Human Services; Department of Homeland Security; Department of Housing and Urban Development; Department of the Interior; Department of the Treasury; Environmental Protection Agency; Federal Communications Commission; General Services Administration; Nuclear Regulatory Commission; Tennessee Valley Authority

### Natural and Cultural Resources

The NCR RSF facilitates the integration of capabilities of the Federal Government to support the protection of natural and cultural resources and historic properties through appropriate response and recovery actions to preserve, conserve, rehabilitate, and restore them consistent with post-disaster community priorities and in compliance with applicable environmental and historical preservation laws and Executive orders.

**Coordinating Agency:** Department of the Interior

**Primary Agencies:** Department of the Interior; Environmental Protection Agency; Federal Emergency Management Agency

**Supporting Organizations:** Advisory Council on Historic Preservation; Corporation for National and Community Service; Council on Environmental Quality; Delta Regional Authority; Department of Agriculture; Department of Commerce; Department of Homeland Security/National Protection and Programs Directorate; General Services Administration; Heritage Emergency National Task Force; Institute of Museum and Library Services; Library of Congress; National Archives and Records Administration; National Endowment for the Arts; National Endowment for the Humanities; U.S. Army Corps of Engineers

## Pre-Disaster and Steady State Roles

Federal RSFs provide a forum for interagency coordination, information sharing, exchange of efficient and effective practices, or support of improved recovery outcomes for communities. RSFs develop guidance and standard operating procedures for rapid activation of their capabilities to support community recovery. Each RSF identifies relevant statutory and/or regulatory programs, potential capabilities, and/or limiting factors pertaining to recovery support for their functional area of assistance. RSFs may also support capability-specific planning, preparedness, education, training, and outreach efforts to enhance capabilities for recovery. Each RSF works with partners to identify critical facilities and ensure considerations are made to reduce risk and increase resilience pre- and post-disaster.

FEMA, in close collaboration with the RSF agencies, coordinates Federal guidance and training to assist local, regional/metropolitan, state, tribal, territorial and insular area governments with inclusive disaster recovery preparedness. This includes planning, organizational development and management capacity

building, support of community resilience-building, training, exercise, evaluation, and improvement.

FEMA is charged with convening RSF coordination meetings as necessary, to discuss Federal readiness for recovery, ongoing recovery operations and agency efforts to promulgate resilience into steady-state programs and policies.

During steady state, RSF coordinating agencies will oversee the preparedness activities and coordinate with their primary and support agencies; to include:

- Maintaining contact with RSF primary and support agencies through conference calls, meetings, training activities, and exercises;
- Monitoring and coordinating assessment of the RSF's progress in meeting the targets of the Recovery core capabilities it supports;
- Coordinating efforts with corresponding private sector, NGO, and Federal partners; and
- Ensuring the RSF is engaged in appropriate planning, readiness, and preparedness activities.

### RSF Leadership Group

The RSF Leadership Group (RSFLG) is a Federal interagency body designed to identify and facilitate resolution of operational and policy issues related to the NDRF and recovery-related elements of Presidential directives for National Preparedness and Critical Infrastructure Security and Resilience. The RSFLG engages the interagency leadership in a forum to improve the effectiveness and unity of effort in coordinating the Federal recovery support of the eight Recovery core capabilities. RSFLG meetings support information exchange and updates on programs that directly affect the roles and responsibilities of the RSFs as described in the NDRF and delivery of federal support for the Recovery core capabilities. RSFLG membership consists of senior officials who can speak authoritatively and represent each NDRF coordinating, primary, and supporting Federal agency; FEMA Headquarters and Regional offices (Regional Administrators and FDRCs); and selected other Federal departments and agencies and other organizations as designated by the RSFLG Chair. In addition, the RSFLG provides national-level support to recovery operations related to incidents with significant RSF-related impacts

### Post-Disaster Roles

FEMA will serve as a focal point for all federal interagency coordination for disaster recovery issues at the department or agency headquarters level. FEMA will coordinate all RSF activities at the national level through the designated RSF coordinating and primary agencies for most incidents. After an incident, FEMA may provide technical assistance to the FCO (for Stafford Act incidents) or other responsible response leadership to determine if an FDRC activation is appropriate. During disaster recovery operations, FEMA provides consultation support and facilitates coordination with executive-level leadership for the FDRC and deployed RSFs. It also coordinates the efforts of the RSF Coordinating Agencies at the national level to support their field components. In major disasters and catastrophic incidents, FEMA supports the deployed FDRC to coordinate recovery efforts and the deployed RSFs.

RSF federal agencies provide assistance when requested by the FDRC or the designated RSF coordinator, consistent with their own authority and resources.

The agencies participating in each RSF collaboratively develop operational guidance for use in recovery coordination operations. RSFs operate under the leadership of the FDRC, who utilizes overarching coordinating constructs to effectively manage and consolidate the RSF support.

The Federal Government uses an inclusive process to ensure coordination with local and state elected officials and sovereign tribal nations to identify priorities for the application of Federal resources. In engaging with affected communities, the RSFs seek to specifically include and address the needs of individuals with disabilities, those with access and functional needs, children, older adults, individuals with limited English proficiency, and members of underserved populations.

The RSFs work closely with state, tribal, and territorial governments to identify underserved populations at the local level. The RSFs also coordinate with Federal Tribal Liaisons, Voluntary Agency Liaisons, Disability Integration Advisors, and other Federal offices, bureaus, and programs when necessary. Local NGOs and community groups often have strong relationships with the underserved populations. The FDRCs, through the RSFs, collaborate with these organizations to ensure that programs are culturally appropriate and that at-risk populations and their needs are identified.

In all actions, FDRCs and RSFs strive for affected residents to have a voice; for services to reach those who need them most; for equitable distribution of resources; and for recovery programs appropriate for the socioeconomic and cultural makeup of the community.

## *Integration*

Effective recovery requires the integration of coordinating structures across the whole community. Integration must happen within and across mission areas for recovery efforts to be successful. At the Federal level, the RSFs must work internally to coordinate the efforts of the coordinating, primary, and supporting agencies. Additionally, because many recovery issues and challenges involve multiple RSFs, coordination among the RSFs is equally important. Coordinated and integrated Federal support is ideal to support communities as they work to achieve their established recovery goals.

The established Federal coordinating structures must also integrate with those established at the local, regional/metropolitan, state, tribal, territorial and insular area levels, as well as with private sector and NGO coordinating structures that may be established. Integration of these coordination structures occurs at the leadership level through the FDRC, SDRC and/or TDRC, and the LDRM; and at the function level through RSFs, task forces, committees, and other organizational structures.

## *Science and Technology*

Science and technology capabilities and investments are essential for enabling the delivery and continuous improvement of National Preparedness. The whole community should design, conduct and improve operations based on the best, most rigorous scientific data, methods and science-based understandings available. Commitments and investments that ensure global leadership in science and technology will yield leading-edge technology and scientific understanding to guide National Preparedness actions. In addition, coordination across the whole community, including scientific researchers, will ensure that scientific efforts are relevant to National Preparedness.

The NDRF differs from its counterpart Response Framework in the duration of activities before and after a disaster. Actions and capabilities supporting recovery are established from the years before an event to the months and years after a disaster takes place. Effective recovery decisions, including making sound decisions about when to transition activities from a response posture to a recovery focus, are informed by science-based assessment of threats, hazards, vulnerabilities, and capabilities. For example, the scientific community can provide guidance to community

decision makers on ongoing recovery phase risk for hazards with potentially long timelines, such as earthquakes.

Additionally, rebuilding and recovery efforts can be stymied by issues or concerns about the potential environmental impacts of the incident. These can become particularly complex when addressing the recovery issues to hazardous material releases or other technological accidents. The science and technology community can leverage its capabilities for scientifically-sound assessment and evaluation to bring certainty to any human health concerns. Innovations in the deployment of new and existing technologies can provide solutions to these challenges and scientific expertise allows communities to seize opportunities to reduce hazard risk and enable a more effective and timely recovery process.

Long-term S&T investments advance the ability to recover from disasters, and sustaining a healthy science and technology workforce, supports the recovery area core capabilities for years into the future. Coordination between those with recovery mission responsibilities and U.S. science and technology communities and institutions will be necessary to ensure that scientific efforts, education, and investments are relevant to recovery.

## Relationship to Other Mission Areas

Effective recovery requires the ability for the recovery coordinating structures to link to and share information with the coordinating structures in other mission areas. For example, effective mitigation efforts directly impact recovery. Establishing close working relationships, lines of communication, and coordination protocols between Protection, Prevention, Mitigation, Response, and Recovery mission areas is critical to achieving successful recovery.

The five mission areas integrate with each other through interdependencies, shared assets, and overlapping objectives. These overlapping areas are identified through comprehensive planning with the whole community to ensure that they are addressed during recovery efforts following an incident.

In pre-disaster efforts to enhance the community's ability to recover from a disaster, and during recovery planning and implementation post-disaster, all five mission areas must work together to avoid unnecessary conflicts that can negatively affect resources, timeframes, and another's objectives. More importantly, the mission areas must work together to better coordinate, leverage, and maximize one another's focus, expertise, and authorities to help build, sustain, and improve our Nation's ability to prepare for, protect against, respond to, recover from, and mitigate all hazards and disasters. The following examples highlight how the Recovery integrates with the other four mission areas.

### Prevention

After a terrorist incident, public information and security related to law enforcement activities will impact recovery. Through the management of the release of public information following an incident, follow-on attacks can be prevented while initiating psychological and social recovery efforts. Additionally, proper recovery planning can ensure that all available resources and response assets are identified and trained to fill relevant vulnerability gaps to meet evolving threats that may prolong recovery efforts. Finally, proper crisis response plans can aid in the prevention of significant economic loss resulting from an incident and damage to vital infrastructure.

## **Protection**

Previous protection activities may reduce recovery requirements. Implementation of plans for the rapid restoration of critical infrastructure and key resource operations enhance recovery efforts. Recovery efforts, such as a comprehensive land use policy that can protect existing community functions, promote innovative approaches and solutions to address preparedness, mitigation, and resilience issues before a disaster strikes. Recovery plans developed post-disaster can incorporate protection measures to harden potential targets and make communities more resilient to future incidents.

## **Mitigation**

Previous mitigation activities may reduce recovery requirements. Opportunities for mitigation occur during recovery. Following an incident, recovery efforts can capitalize on the critical post-disaster window of opportunity to influence public opinion to take steps toward mitigation. These mitigation concepts can be communicated to community officials, homeowners, NGOs, and private sector owners, operators, and managers to minimize risks resulting from future incidents. Application of mitigation initiatives and investments pre-disaster can aid in reducing recovery resource requirements post-disaster. Proper recovery planning can ensure that all levels of government work to implement disaster resistant building codes and incentivize private sector and individual pre-disaster preparedness activities and mitigation. Finally, recovery plans should work to incorporate health considerations and resilience and sustainability measures into identified infrastructure systems and housing recovery strategies.

## **Response**

The National Response Framework and ESF activities will be the foundation for early recovery processes and decision-making. The NDRF does not speak to short-term activities such as life sustaining, property protection, and other measures intended to neutralize the immediate threat to life, environment, and property and to stabilize the community. However, these activities influence recovery activities, necessitating the need for a structure to consider and advise on recovery implications during the early phases of incident management. The recovery organizational constructs introduced in the NDRF coexist with ESFs and build upon the response organizational structure and resources to more effectively address inclusive recovery needs. These constructs incorporate and adopt the central tenets of the National Incident Management System and support the primacy of local, regional/metropolitan, state, tribal territorial and insular area governments in preparing for and managing the response and recovery from natural and human-caused incidents.

The NDRF also provides the tools to encourage early integration of recovery considerations into planning the response operations. The Response and Recovery mission areas include some of the same people and organizations; therefore, each coordinating agency ensures ongoing communication and coordination between primary agencies and support organizations, and between the Federal agencies, corresponding local, regional/metropolitan, state, tribal, territorial and insular area authorities, and nonprofit and private sector organizations.

## **Operational Planning**

The National Planning Frameworks explain the role of each mission area in national preparedness and provide the overarching strategy and doctrine for how the whole community builds, sustains and coordinates the delivery of the core capabilities. The concepts in the Frameworks are used to guide planning at all levels, which provides further information regarding roles and responsibilities,

identifies the critical tasks an entity will take in executing core capabilities, and identifies resourcing, personnel, and sourcing requirements.

At the Federal level, each Framework is supported by a mission-area-specific FIOP (see Supporting Resources). The Comprehensive Preparedness Guide 101<sup>12</sup> is a guide for local, regional/metropolitan, state, tribal, territorial and insular area governments to develop a disaster planning process. The following section elaborates basic guidance for planning as applied within the Recovery mission area.<sup>13</sup>

## Planning Assumptions

Assumptions are made as part of every strategy development process. Recovery planning assumptions are typically broad and help to frame the objective of the planning effort. They require acknowledgement that planning objectives are complex and apply to the whole community. Some overarching recovery planning assumptions include:

- Future risk is evolving and presents new challenges.
- Incidents are typically managed at the lowest possible geographic, organizational, and jurisdictional level.
- Resilience, both physical and social, is a desired outcome—the state of being able to adapt to changing conditions and then withstand and effectively rebound from the impacts of disasters and incidents.
- Resilience can be acquired through a process of pre- and post-disaster planning, leadership development, and partnership building.

## Planning Activities

The following table outlines the unique aspects of the recovery mission that apply to pre- and post-disaster for strategic, operational, and tactical planning.

**Table 4: Strategic, Operational, and Tactical Recovery Planning Activities**

| <b>Strategic - Driven by policy, establishes planning priorities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Pre-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Post-Disaster</b>                                                                                                                                                                                                                                                                                                                                                   |
| <ul style="list-style-type: none"> <li>• Develop a mitigation plan that establishes long-term risk reduction priorities and policies to guide post-disaster recovery and redevelopment.</li> <li>• Establish pre-disaster priorities and policies to guide recovery and reinvestment across the other Recovery core capabilities.</li> <li>• Develop an inclusive and accessible whole community public engagement strategy.</li> <li>• Evaluate current conditions; assess risk, vulnerability, and potential community-wide consequences.</li> </ul> | <ul style="list-style-type: none"> <li>• Assess community conditions, re-assess risk, evaluate needs, and forecast future needs and trends.</li> <li>• Set goals and objectives—short, intermediate and long term—engaging the public in the process.</li> <li>• Identify opportunities to build in future resilience through mitigation and other methods.</li> </ul> |

<sup>12</sup> *Developing and Maintaining Emergency Operations Plans: Comprehensive Preparedness Guide 101* can be found at <https://www.fema.gov/media-library/assets/documents/25975>.

<sup>13</sup> Recovery specific planning guidance for local, state, tribal, and territorial governments is under development. It will be posted on <https://www.fema.gov> when published.



| <b>Strategic (continued) - Driven by policy, establishes planning priorities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Pre-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Post-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ul style="list-style-type: none"> <li>• Integrate recovery and mitigation goals and policies into other local, regional, state, and Federal plans.</li> <li>• Establish priorities and identify opportunities to build resilience, to include sustainable development, equity, community capacity, and mitigation measures.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Consider standards for sustainable, universally accessible, healthy community design and construction that also integrates mitigation and long-term resilience-building activities.</li> <li>• Ensure policies are inclusive of the whole community, including people with disabilities and others with access and functional needs.</li> <li>• Re-assess community priorities, values and vision for future development.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Operational - Describes roles and responsibilities, focuses on coordinating and integrating the activities of the whole community</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Pre-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Post-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ul style="list-style-type: none"> <li>• Establish clear leadership, operational coordination, and decision-making structures at the local, regional/metropolitan, state, tribal, territorial, insular area, and Federal levels.</li> <li>• Develop pre-disaster partnerships to ensure engagement of all potential resources.</li> <li>• Identify and engage whole community stakeholders including the general public, community leaders, faith-based organizations, nonprofit organizations, private sector entities, and health providers (including behavioral health).</li> <li>• Identify limitations in community recovery management capacity and the means to supplement this capacity, such as training and education, and make that capacity available to all stakeholders.</li> <li>• Determine roles, responsibilities, and resources of whole community partners.</li> <li>• Establish continuity of operations plans to ensure essential recovery services can be delivered during all circumstances.</li> </ul> | <ul style="list-style-type: none"> <li>• Organize, build on, and adapt (as necessary) preexisting plans and priorities, including pre-disaster recovery and mitigation plans.</li> <li>• Use a community-driven and locally managed process designed to promote local decision making and ownership of the recovery planning and implementation effort.</li> <li>• Work collaboratively with all groups of people affected by the incident to promote inclusive and accessible outreach to their communities and to address issues relevant to them.</li> <li>• Ensure inclusion and encourage participation of individuals and communities that may require alternative and/or additional outreach support.</li> <li>• Keep the public informed on all aspects of recovery and encourage collaboration across partners.</li> <li>• Implement a coordination structure and build partnerships among local agencies and jurisdictions and state, tribal, and Federal governments.</li> <li>• Develop tools and metrics for evaluating progress against set goals, objectives, and milestones. Conduct community or state-wide recovery issues identification and impact evaluation.</li> </ul> |
| <b>Tactical - Identifying specific projects and managing resources</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Pre-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Post-Disaster</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <ul style="list-style-type: none"> <li>• Establish specific local procedures, requirements, regulations, or ordinances to address specific, expected post-event recovery actions.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>• Identify, adapt, implement, and manage actions, procedures, programs, requirements, organizations, regulations, ordinances, and policies to address specific needs.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**Tactical (continued)- Identifying specific projects and managing resources**

| <i>Pre-Disaster</i>                                                                                                                                                                                                                      | <i>Post-Disaster</i>                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Establish specific plans, contracts, and resources for tactical activities expected post-event (e.g., debris management, recovery management, temporary housing, building permitting).</li> </ul> | <ul style="list-style-type: none"> <li>Identify specific projects in areas of critical importance to the community, region, or state's overall recovery.</li> <li>Provide well-defined activities and outcomes—including schedules and milestones—aimed at achieving recovery.</li> </ul> |

**Additional Considerations**

The following considerations identify unique aspects of recovery that apply to pre- and post-disaster planning:

- **Leadership.** Recovery leadership identified pre-disaster may change in the post-disaster environment.
- **Coordination.** The organizational structure used for recovery coordination may be adapted from an existing structure or new structure may be created. The recovery process may also present an opportunity for regional collaboration and coordination.
- **Timeframe.** Timelines for recovery progress established in pre-disaster recovery plans will likely need to be modified depending on the specific impacts of an incident.
- **Resources.** Resources identified pre-disaster may be degraded or unavailable. Limited resources may impact the cost, speed, effectiveness, and timeliness of recovery.
- **Engagement.** Whole community engagement is a critical part of pre- and post-disaster recovery planning that must be carefully managed. Successful whole community engagement may present challenges, to include:
  - Stakeholders may be displaced and/or unable to access the community. Communication methods identified pre-disaster may need to be modified to reach all community members and to provide ongoing support and information.
  - Normal mechanisms/social networks for community engagement may be fractured; including the loss of structure from schools, housing facilities, community centers, libraries, health (including behavioral health) and social service programs, or other community institutions.
  - Recovery leaders will need to ensure actionable, effective, and accessible communications for all individuals, including individuals with disabilities and others with access and functional needs, such as limited English proficiency.
- **Resilience.** Pre- and post-disaster planning are opportunities to build resilience by continually evaluating threats, hazards, and impacts and implementing new policies and requirements to reduce risk regarding issues such as floodplain management, coastal zones, seismic areas, and historic and cultural properties. Resilience is also built by strengthening community leadership and collaboration during the planning process, integrating key considerations into planning such as community health (including behavioral health), long-term needs of the community, social and economic resilience of all members of the community, and unique needs of rural or high-density urban communities and other culturally diverse communities.

Additional planning considerations unique to each level of government include:

- **Local.** Recovery planning within a community is dependent on an active local government. The local community provides leadership in recovery planning and management. It is uniquely positioned to coordinate and manage the recovery activities through the LDRM. Partnerships and coordination developed during the pre- and post-disaster planning process, with the whole community, are critical to successful local planning and recovery.
- **State/Territory.** States play an important role in supporting and, where necessary, leading overwhelmed local governments to address complex governmental, regulatory, and financial challenges during short- and long-term recovery. Operational planning enables states to be better organized and positioned to effectively manage new issues and challenges that they will likely confront in their recovery process. The state will also provide an important leadership role and serve as the interface between state agencies and the Federal Government to streamline recovery funding at the local level.
- **Tribal.** Tribal lands may cross multiple state lines. Coordination with those jurisdictions plays a key role in planning for a tribe's recovery from an incident. Tribes may seek assistance, independent from states, from the Federal Government to clarify and streamline recovery funding. The Federal Government recognizes that the tribal right of self-government flows from the inherent sovereignty of American Indian and Alaska Native Tribes as nations and that federally recognized tribes have a unique and direct relationship with the Federal Government.
- **Federal.** The types of post-disaster planning assistance and level of technical support available through the Federal Government vary by community needs and depend on the impacts and the recovery capacities of local, regional/metropolitan, state, tribal, territorial and insular area governments. The Federal Government can help to address broader national and regional recovery issues and to coordinate federal support activities and resources. Integral in this process is the need to conduct operational planning that will support the internal organization, day-to-day management, and resource coordinating structure that enables the delivery of Federal support.
- **Private Sector and NGOs.** Private sector and nongovernmental partners also provide significant resources to governments and communities in widely varied ways to support an inclusive, coordinated, well planned and well-led local recovery. Resources from these organizations are coordinated and involved at all levels of government and nongovernment activity.

Planning for the complex needs of the whole community, and bringing all stakeholders to the table with a commitment to physical, programmatic, and communications accessibility, helps create a successful post-disaster recovery process. The post-disaster planning process operates on a much faster timeline than traditional community planning or pre-disaster planning processes. A significant challenge of post-disaster recovery planning is developing a plan quickly enough to meet the needs of residents and businesses, while ensuring sound decisions are based on facts, analysis, and input from the whole community. However, one of the basic goals of the process is to build and develop resilience through relationships and interagency cooperation that serve the recovery process long beyond the planning phase.

## Framework Application

---

The NDRF is the National Framework to promote effective recovery and does not impose new, additional, or unfunded net resource requirements on local, regional/metropolitan, state, tribal, territorial, insular area, or Federal agencies. This Framework is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any

other person.

This Framework is intended to inform all levels of governments, NGOs, and the private sector on managing, coordinating, and planning a community's recovery following an incident of any size or scale. Local, regional/metropolitan, state, tribal, territorial, and insular area governments who use this Framework to guide their pre- and post-disaster planning processes and activities are positioned to look beyond static planning to a more holistic view of recovery strategies and outcomes. The planning process also presents an opportunity to develop metrics to measure and monitor a community's recovery progress. Linking recovery metrics to a community's plans will provide decision makers with information to guide recovery policies and priorities and identify opportunities to build resilience.

## *Achieving Successful Recovery*

Each community defines recovery outcomes differently based on its circumstances, challenges, recovery vision, and priorities. One community may characterize recovery success as the return of its economy to pre-disaster conditions, while another may see it as the opening of new economic opportunities.

Recovery is more than the community's return to pre-disaster circumstances; because of the time recovery takes, simple restoration may result in lost opportunities. This is especially true when the community determines that pre-disaster conditions are no longer sustainable, competitive, or functional. That conclusion may result from pre-disaster circumstances or stem from the post-disaster evaluation of damage or other change. Some communities, for example, may conclude that success requires relocating all or some portion of the community assets and restoring vacated areas to a more natural, predevelopment environment. In all cases, the community recovery decision-making is best informed by evaluating all alternatives and avoiding simple rebuilding or reconstructing of an area that continues to be at risk. In other communities, reestablishing an economic and social base that instills confidence in the community members and businesses regarding its viability can be critical to recovery success.

## **Success Factors**

Although no single definition fits all situations, successful recoveries do share commonalities. Generally speaking, a community that can demonstrate a capability to be prepared, responsive and resilient in the face of future disasters is poised for success. Specifically, experience has shown that the presence of the following factors can help ensure a more effective recovery process:

- **Comprehensive Scope**, which includes the need to plan and operate recovery programs and organizations with the understanding that efforts serve people, their culture, and their place. Recovery efforts must address a continuum that includes individual survivor needs as well as the needs of the community and surrounding environment.
- **Effective Decision-Making and Coordination**, which includes characteristics such as defining stakeholder roles and responsibilities; coordinating response activities with corresponding recovery functions; examining recovery alternatives, addressing conflicts, and making informed and timely decisions; and establishing ways to measure and track progress, ensure accountability, make adjustments, and reinforce realistic expectations.
- **Integration of Community Recovery Planning Processes**, which include characteristics such as linking recovery planning to other planning efforts and developing processes and criteria for identifying and prioritizing key recovery actions and projects.

- **Well-Managed Recovery**, which includes characteristics such as developing pre-disaster partnerships at all levels of government, with the private sector, and with NGOs; effectively leveraging resources; seeking out and successfully using outside resources; establishing guidance for the transition from response to recovery; and planning for surging personnel demands post-disaster.
- **Proactive Community Engagement, Public Participation, and Public Awareness**, which includes characteristics such as stakeholders working together to maximize the use of available resources; creating post-disaster recovery plans that can be implemented quickly; and making sure public information is actionable, effective, and accessible to keep everyone informed throughout the recovery process.
- **Effective Financial and Program Management**, which includes characteristics such as understanding which funding sources could finance recovery; knowing how to administer external funding programs; having a system of internal financial and procurement controls and external audits; and maximizing the use of local businesses to aid recovery of the local economy.
- **Organizational Flexibility**, which includes characteristics such as having recovery structures at all government levels that evolve, adapt, and develop new skills and capacities to address changing recovery needs; facilitating compliance with laws, regulations, and policies; and ensuring flexible staffing and management structures.
- **Resilient Rebuilding**, which includes characteristics such as taking into account ecological, environmental, and local capacity; adopting sustainable and inclusive building techniques, building codes, and land use ordinances; and incorporating risk reduction strategies into local governance and decision making.
- **Health Integration**, which includes characteristics such as including health considerations and implications in recovery decision making.

## *Measuring Recovery Progress*

All partners involved in recovery have an interest in looking at how their actions impact the overall progress of the recovery effort. Each entity must identify their strategies and benchmarks for how they will measure their efforts both qualitatively and quantitatively. The most clear-cut means of looking at recovery progress overall is by and through the community itself. The following section addresses the most local approach to measuring recovery progress.

Measuring and communicating the progress of recovery increases public confidence in the recovery process by promoting transparency, accountability, and efficiency. It enables local leadership to identify ongoing recovery needs and engages partners in providing assistance and problem resolution. Recovery progress measurement serves as a tracking mechanism for improving and adjusting recovery strategies and activities and ensuring continuing improvement. Communities determine how to qualify and quantify their progress. They measure progress toward recovery holistically, recognizing that recovery outcomes and impacts are measured beyond a single criterion such as dollars spent or assistance delivered on a program-by-program basis. The following are factors for consideration for measuring progress:

- Recognize that recovery progress has variables not attributable to any one program or government agency. Overall recovery success depends upon the interaction of a wide range of public, nonprofit, and private programs and initiatives, as well as good planning, local capacity, leadership, effective decision making, and the building of public confidence.

- Establish systems and leverage available data that track pre-disaster conditions, overall recovery of individuals, and the reconstruction and redevelopment of infrastructure, economy, health (including behavioral health), social and community services, and government functions.
- Integrate disaster preparedness and recovery planning with community-wide comprehensive and hazard mitigation planning to capitalize on opportunities that minimize the risk to all hazards and strengthen the ability to withstand and recover from future disasters.
- Set realistic expectations and milestones for community members, stakeholders, and supporting agencies using indicators for applicable recovery priorities and resource needs.
- Ensure whole community participation in developing metrics in coordination with local, regional/metropolitan, state, tribal, territorial, insular area, and Federal government partners and nongovernmental and private sector partners. Include persons with disabilities and others with access and functional needs, older adults, members of underserved populations, and advocates representing the unique needs of children.
- Leverage technology and systems innovations to achieve goals that result in greater information sharing, accountability, and transparency.
- Assure that recovery activities respect the civil rights and civil liberties of all populations and do not result in discrimination based on race, color, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity, age, or disability.
- Ensure continuous improvement by evaluating the effectiveness of recovery activities.

Governments and organizations that provide assistance are encouraged to have a system of tracking their coordination and assistance efforts, ensuring accountability and enabling prompt adjustments to meet ongoing and changing needs. Considerations applicable for developing metrics include:

- **Baseline Impact Assessment.** Helps illustrate and clarify the extent and dimensions of the impacts in order to chart a path to a realistic recovery end state.
- **Desired Outcome Analysis.** Focuses on recovery impact and overall results, not just a target number (e.g., number of families in permanent housing versus number of housing units constructed). The overall goals that the community, state, or jurisdiction is looking to achieve should drive the metric for success.
- **Cross-Cutting Sector Issue Assessment.** Tracks progress across all sectors, including but not limited to housing, environmental, business, employment, infrastructure, access to essential health (including behavioral health) and social services, and overall community accessibility.

## Supporting Resources

The NDRF is supported by the ongoing development of detailed operational, management, field guidance, and training tools, to include the Recovery FIOP. The Recovery FIOP provides further detail regarding roles and responsibilities, specifies the critical tasks, and identifies resourcing and sourcing requirements for delivering the Recovery core capabilities. The Response and Recovery mission areas are developing joint incident Annexes; the final plans will be attachments to both the Response and Recovery FIOPs. The incident Annexes identify authorities, capabilities, and roles and responsibilities that are unique to responding to and recovering from identified incidents.

FEMA maintains an online repository at [www.fema.gov](http://www.fema.gov) that contains electronic versions of the current NDRF document, Recovery FIOP, additional recovery resources, training materials, and



other tools. The repository also includes other mission area Frameworks and FIOPs. Resources will be regularly evaluated and updated based on lessons learned and best practices from real-world incidents and preparedness efforts. Additional content may be added or modified at the request of Recovery mission area partners and other users.

## Conclusion

---

Recovery refers to those capabilities necessary to assist communities affected by an incident to recover effectively and efficiently, including coordinated, prompt, reliable, and actionable information to the whole community to support recovery; ensuring informed and coordinated leadership throughout all levels of government; ensuring pre-, post-, and community-based recovery planning; rebuilding infrastructure systems; providing adequate interim and long-term accessible and affordable housing for survivors; restoring health (including behavioral health), social, and community services; promoting economic development; and preserving and restoring natural and cultural resources. Incidents on any scale will impact the entire community on many levels. It is vital that communities not only can recover to pre-disaster conditions, but that they are also provided the resources and support that can help them build sustainable and resilient processes, capabilities, and systems to effectively move forward.

Recovery is not an isolated mission to be engaged only during post-disaster conditions. Complete recovery post-disaster involves the coordination and concurrent efforts of all mission areas. Through proper preparedness and activities pre-disaster, post-disaster recovery needs can be reduced, and recovery efforts can be accelerated, streamlined, and applied nationwide so that all communities, regardless of location and magnitude of incident, can recover post-disaster as efficiently as possible.

In implementing the NDRF, partners are encouraged to develop a shared understanding of broad-level strategic implications among the other mission areas (Mitigation, Prevention, Protection, and Response) as they make critical decisions in building future capacity and capability. The whole community should be engaged in examining and implementing the strategy unifying principles and doctrine contained in this Framework, considering both current and future requirements in the process. The NDRF must also be a living document. This means that it must be regularly reviewed to evaluate consistency with evolving conditions, existing and new policies, and the experience gained from its use.

Working with all our partners, FEMA will coordinate and oversee the review and maintenance process for the NDRF. The revision process includes developing or updating any documents necessary to carry out capabilities. Significant updates to this Framework will be vetted through a Federal senior-level interagency review process. This Framework will be reviewed in order to accomplish the following:

- Assess and update information on the core capabilities in support of Recovery goals and objectives;
- Ensure that it adequately reflects the organization of responsible entities;
- Ensure that it is consistent with the other four mission areas;
- Update processes based on changes in the national threat/hazard environment;
- Incorporate lessons learned and effective practices from day-to-day operations, exercises, and actual incidents and alerts;



- Reflect progress in the Nation’s Recovery mission activities and the need to execute new laws, Executive orders, and Presidential directives, as well as strategic changes to national priorities and guidance, critical tasks, or national capabilities; and
- Ensure overt emphasis on action steps to include the whole community, inclusive of individuals with disabilities, those with access and functional needs, children, older adults, individuals with limited English proficiency, and members of underserved populations.

The implementation and review of this Framework will consider effective practices and lessons learned from exercises and operations, as well as pertinent new processes and technologies. Effective practices include continuity planning, which ensures that the capabilities contained in this Framework can continue to be executed regardless of the threat or hazard. Pertinent new processes and technologies should enable the Nation to adapt efficiently to the evolving risk environment and use data relating to location, context, and interdependencies that allow for effective integration across all missions using a standards-based approach.

America’s security and resilience work is never finished. While the Nation is safer, stronger, and better prepared than a decade ago, the whole community remains resolute in its commitment to safeguard the Nation against the greatest risks it faces, now and for decades to come.

# **A Primer: How Federal Changes are Shifting Disaster Resilience in California**

*Published Wednesday, October 8, 2025*

As California recovers from one of the worst wildfire disasters in its history, there is growing concern and confusion regarding the rapid changes happening to federal emergency management infrastructure and policy.

Fortunately, Philanthropy California has a strong network of partners who are already providing research, policy analysis, and real-time context of the shifting landscape in D.C., which the philanthropic sector can leverage to inform their approach to disaster preparedness and resilience.

Our Philanthropy California Climate and Disaster Resilience Team curated a list of Frequently Asked Questions (FAQs) about recent changes to the federal disaster management landscape to provide information in a moment of critical importance. The information below reflects the state of play for disaster resilience in California, verified by a panel of experts from think tanks, former and current federal and state disaster management leadership, and frontline organizations supporting communities impacted by recent wildfires and ICE enforcement.

Philanthropic funders can use this FAQ to inform and guide their grantmaking and charitable giving to support communities in preparing for, responding to, and recovering from disasters toward long-term resilience. Please see this FAQ list as a continuing resource updated as new information is learned to support you in engaging with partners and grantees.

This article was reviewed for clarity, consistency, and accuracy by a panel of experts at the following organizations:

- Urban Institute
- California Department of Housing and Community Development
- Former and current FEMA leadership and staff
- California Governor's Office of Emergency Services
- American Red Cross

## Current and Future Disaster Response and Recovery

### **Is the State of California operationally and financially prepared in the scenario the president refuses to declare a major disaster?**

While California has greater fiscal capacity than other states to absorb the costs of large-scale disasters, a loss of federal support would be a budget challenge. A political shift toward states and local governments absorbing the cost of disaster places added pressure not just on government but also the insurance industry, public-private partnerships, and philanthropy to provide capital for various strategies in mitigation, preparedness, response, and recovery.

In recent years, the federal government has provided California with significant resources in the aftermath of disasters. For example, California received nearly \$210 million in both individual (funding to individuals and households) and public assistance (funding to public agencies and government) after the 2020 wildfires in the Bay Area. Similarly, in the response to the 2025 January wildfires, FEMA has already provided nearly \$150 million in individual assistance alone, with the total sent to California passing \$2 billion when factoring in public assistance and small business administration loans.

According to the Urban Institute, with less support from FEMA, “Many states won’t have the emergency disaster funds needed to weather a major disaster.” Notably, the State of California has also been able to respond to disasters that do not receive a major disaster declaration. That said, the Institute’s review of available data shows that California has less funding set aside for disasters than in previous years, likely due to multiple large-scale disasters that have required state support in recent history. Based on 2019 data, California’s Special Fund for Economic Uncertainties held \$5.39 billion. While this fund would theoretically cover the costs of something as catastrophic as the L.A. Wildfires, it would reduce emergency reserves significantly throwing the state into uncertainty should there be multiple large disasters in the same fiscal year. Without federal support for disasters, the state may need to invest in additional staffing, personnel, and expertise that would typically come from FEMA and other federal resources.

### **Will FEMA continue to respond to disasters in California and other states? Will households and Tribes continue to receive FEMA assistance for current and future disasters?**

In order for FEMA to respond to disasters in California, the President must approve a major disaster declaration from the Governor. An approved major declaration for disaster potentially unlocks federal support such as individual and public assistance, various recovery programs, federally-funded debris removal missions, disaster recovery centers, and other streams of public funding through the Small Business Administration, U.S. Department of Agriculture, Department of Transportation, and others. FEMA has staff deployed across the country and U.S. territories in response to requests for federal assistance.

FEMA is still tasked with responding to disasters and providing Individual Assistance, which can only be unlocked by a major disaster declaration. However, the President has broad discretion to limit, delay, or condition that aid. Recent Department of Homeland Security actions with the Texas Flood show a willingness to challenge FEMA's standard operational procedures.

According to a recent FEMA Operations Daily Brief, there are currently 13 requests for federal disaster declarations in process, with these requests dating back to May 2025. In total, there have been 32 disaster declarations and requests for hazard mitigation assistance that remain outstanding, either pending or denied since February 2025. These declarations include requests for support for severe storms, flooding, landslides/mudslides, tornadoes, straight-line winds, fire hazard, and hazardous materials. Declarations have been made by various states as well as Tribes. Whereas in past administrations disaster declarations were made on a rolling basis to provide federal resources quickly, we have seen this administration hold on approving declarations until several have been requested.

While we are still likely to see federal assistance for disasters, the threshold for a presidential declaration may change. In the future, it may be more difficult for California to receive an approval for a presidential declaration, as more responsibility for disaster management will fall on the states. Proposed changes to the disaster declaration process include raising the damage threshold for a presidentially declared disaster, denying major disaster declarations for snowstorms, and limiting the federal cost share for public assistance funding after a disaster to 75 percent or less. With a major disaster declaration, federal support can also include the Hazard Mitigation Grants Program (HGMP), which is a resource for building back better but which has yet to be authorized by the current administration.

*Notably, Tribes do not need to go through Cal OES for disaster declarations. They can go directly to FEMA to request support.*

Historically, the amount that is allocated to FEMA's Individual Assistance program per state varies depending on how many people apply. According to the Carnegie Endowment's Disaster Dollar Database, "Since 2015, across 170 disasters, the median average assistance amount per approved application from FEMA's Individuals and Households Programs (IHP) is \$4,995. On average, just 39 percent of applicants are determined to be eligible for IHP." Grant sizes for Individual Assistance can vary depending on the disaster and extent of damage. Without individual assistance and supplemental federal resources through the Small Business Administration (SBA) or Community Development Block Grants for Disaster Recovery (CDBG-DR) for large-scale disasters, philanthropy may need to play an even bigger role in filling funding gaps. Even when federal disaster programs are activated, there tends to be significant funding gaps.

## What FEMA Assistance Looks Like



Source: Disaster Dollar Database, Carnegie Endowment for International Peace.

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

[CarnegieEndowment.org](https://CarnegieEndowment.org)

## Is it safe for non-citizens to receive help at evacuation centers or shelters?

In the current political landscape, there is an increased risk for non-citizens at evacuation centers and shelters. Historically, shelters have been treated as places where routine immigration enforcement is limited, but recent actions by the current federal administration have changed the landscape and made undocumented people, and even legal permanent residents, more vulnerable when applying for federal assistance and when at shelters.

There is no absolute guarantee that shelters are “safe” from immigration enforcement under the current administration. The risk has meaningfully increased. Immigration enforcement may also be enforced in areas surrounding shelters. In Los Angeles, non-governmental organizations like the American Red Cross took additional measures to plan ahead in the event that ICE tried to enter. Even so, undocumented individuals and families should verify local shelter policies, prioritize community or faith-based options that limit data sharing, and connect with local immigrant-rights groups for real-time guidance. Additionally, routes to and from safe shelters might pose a threat and should be monitored closely during a disaster. Philanthropy should consider all available information on risk before making any specific recommendations to undocumented communities on where they should seek help during a disaster.

FEMA’s eligibility guidance for many disaster-assistance programs still ties certain assistance (e.g., housing assistance) to citizenship/qualified-alien status. In August 2025, the Department of Homeland Security moved to bar states and volunteer groups from serving undocumented immigrants. This does not automatically mean Immigration and Customs Enforcement (ICE) will arrest people at disaster centers, but it does mean some federal programs are limited to people

with certain immigration statuses. That said, the federal environment is actively more enforcement-oriented in this current administration, and it is possible that there might be more limits on who does and does not get help when FEMA is involved. There is practical concern over risk that information gathered during disaster response could be used in immigration-related actions or be shared with enforcement.

### **Will California receive Community Development Block Grant – Disaster Recovery (CDBG-DR) funding for the LA Wildfires? What happens if we don't receive this appropriation?**

At the time of writing, no new CDBG-DR (Community Development Block Grant–Disaster Recovery) funds have been allocated to California for the recent L.A. wildfires. Recent CDBG-DR allocations—such as the \$416.6 million distributed to California—were designated for 2023–2024 disasters like severe winter storms, floods, landslides, and mudslides. There will likely be a packaged appropriation request presented to Congress with all disasters that occur in 2025 for long-term recovery funding, including the LA Wildfires and flooding in Texas. This should make the process less political as both Republican- and Democrat-led states depend on these resources for long-term recovery.

CDBG-DR can be used for a wide array of housing, infrastructure, and economic recovery activities. To date, California has administered numerous recovery programs with CDBG-DR, including owner-occupied reconstruction, home hardening, multifamily rental housing, homebuyer assistance, infrastructure recovery, hazard mitigation, workforce development, public services, and planning. These prior CDBG-DR grants covered less than 15% to 20% of unmet recovery needs. Congress and HUD require that no less than 70% of a CDBG-DR award support low- and moderate-income households or communities. Additionally, awards include a 15% set-aside for forward-looking hazard mitigation activities that reduce the risk of future losses in disaster-affected areas.

While CDBG-DR assistance may become available, the timing and amount are uncertain. The time lapse between a major disaster event and a supplemental disaster appropriation is largely dependent when the prior appropriation had been made how many other major disasters occur in the same year. Without a supplemental appropriation for CDBG-DR, recovery programs and projects will need to rely more on SBA loans, insurance, and state, local, and philanthropic sources.

## **Policy Changes Affecting FEMA and Federal Funding**

### **What policy changes have been made that may or will impact FEMA's response to future disasters in California?**

The federal government is unlikely to be ready for significant disasters this year. Elaine Kamarck's July 2025 Brookings Institute article points to widespread instability and political interference at FEMA as key reasons for concern. Mass firings, suspension of staff, leadership

changes, and deferred resignations have left the agency understaffed throughout hurricane and wildfire season.

These structural and leadership gaps at FEMA strongly suggest the federal government will not be fully ready to handle major disasters during and after this year. The dismantling of the National Weather Service, FEMA, and other federal agencies has weakened our national security infrastructure, as seasoned staff with decades of expertise have been dismissed. Despite congressional requirements that FEMA be led by experienced emergency managers, acting heads without such backgrounds now run the agency, while staff and funds are diverted to support ICE. New layers of bureaucracy have slowed disaster response (e.g., Texas floods), resilience funding (BRIC), and recovery aid (e.g., funds for North Carolina). With less federal funding for proactive risk reduction, it is imperative that risk-informed, risk-reducing, resilience-building projects become integrated in the strategies of funding agencies and institutions that absorb this responsibility.

Looking ahead, two processes will be critical to watch: the FEMA Review Council, established by the Trump administration to assess “the existing ability of FEMA to capably and impartially address disasters,” and the pending FEMA Independence Act of 2025. Both seek to redefine FEMA’s authority and role in disaster response, with potential long-term implications for how the nation manages crises.

In the absence of federal support, California may increasingly be called upon to provide mutual aid to other states facing crises. The state has already demonstrated this capacity during the COVID-19 pandemic, when it sent ventilators and protective equipment to states in need. Future emergencies may require California to act as a safety net for the rest of the nation.

### **What federal preparedness or mitigation funding from FEMA has been cut? What funding is still flowing? What does this mean for local communities?**

Since January, hundreds of millions of dollars in FEMA funding for mitigation, resilience, and preparedness has been cut, withdrawn, or cancelled impacting communities across California. In total, more than \$800 million in Building Resilient Infrastructure in Communities (BRIC) that were intended for California remain in limbo while a court decides on the legality of the cancellation with many communities receiving notice that their grant agreements have been terminated. Funding terminated included projects focused on earthquake retrofits, wildfire resilience projects, and coastal and sea level adaptation projects, among others.

According to the Urban Institute, across the United States cutting BRIC and the Flood Mitigation Assistance program will freeze more than \$3 billion in disaster resilience funding. Research from the US Chamber of Commerce shows that for every dollar invested in resilience, communities save between \$6 and \$13 in disaster recovery costs, showing the importance of these funds in keeping the costs of disasters low. Further, there was concern that FEMA would not release funding for the Emergency Management Performance Grant that provides funding to states and local governments for emergency management staff and facilities, including many staff in California at Cal OES and



across local agencies. On August 1st, FEMA announced that funding would be available for this program for the 2025 – 2026 fiscal year, however, the delay caused panic across the country as some states use this to fund 80% of their core disaster management and preparedness functions.

## Philanthropic Response & Partnerships

### **Will FEMA still have “Philanthropy Liaisons”? Who can philanthropy work with at the State during disasters?**

The FEMA Interagency Recovery Council currently houses the FEMA Philanthropic Advisor program. It is anticipated that this program will still be sustained, although there is a possibility that oversight of the IRC might move under the White House National Security Council. California’s Disaster Recovery Framework (CDRF) was written in 2019 and implemented for the first time in 2020 during the winter storms. State agencies were actively engaged in recovery for the first time in the L.A. wildfires.

Before, during, and after disasters, philanthropic funders in California can lean on Philanthropy California’s partnership with the California Governor’s Office of Emergency Services (Cal OES). The Chief of Private Sector and NGO Coordination, by way of the Business Operations Center, often works with Philanthropy California to uplift disaster funds, coordinate philanthropic response, and track opportunities for public-private partnership in preparedness, response, and recovery.

### **Where might philanthropy be asked to fill in gaps widened by changes to FEMA and federal funding for disasters?**

As federal agencies face staffing shortages, policy uncertainty, and narrowed eligibility, philanthropy may need to act faster, with greater flexibility, and be prepared to sustain funding beyond the immediate relief phase. Philanthropy may increasingly be called on to fill long-term recovery and resilience gaps as FEMA and other federal disaster funds face delays, restrictions, or political shifts. Philanthropy will also be called upon to provide concessional capital, first-loss capital, or other types of guarantees that enable large scale private sector investments in the resilience of communities and their ability to recover from events that are not covered by major disaster declarations.

Reduced federal funding will impact all recovery support function areas, and philanthropic dollars may need to be directed toward supplemental strategic investments where federal funding may previously have been used:

- **Housing:** Rebuilding and repairing homes for survivors who are ineligible for federal aid (e.g., undocumented residents) or whose needs exceed FEMA’s grant caps. This may also include covering rental assistance or temporary housing when federal housing programs end

- **Economic Recovery:** Supporting small businesses, workers, and workforce development; direct cash assistance to individuals and families; support in acquiring leases and land for lost community facilities and commercial properties; job training and placement; support for home-based businesses (i.e., early childcare and education); day laborer and open-air worker support. Particular emphasis on supporting undocumented or credit-invisible individuals for whom loans are not a viable option.
- **Natural & Cultural Resources:** Supporting parks, open space, and trail restoration and mitigation projects previously covered by federal funding; supporting historical preservation and cultural site restoration/preservation.
- **Community Assistance and Capacity Building:** Investing in community-led resilience projects—especially for socially vulnerable areas—that often struggle to secure federal grants; building local capacity to track needs, coordinate aid, and navigate complex funding streams.
- **Health, Education, and Human Services:** Funding disaster caseworkers, mental health care, and legal aid where federal programs are short-lived or under-resourced.
- **Communications and External Affairs:** Strengthen external affairs capacity during major disasters by funding trusted, community-based communication channels, translation services, and culturally competent outreach to combat misinformation, ensure accurate and people-centered information reaches at-risk populations, and provide door-to-door survivor support where government no longer does.

###

## CONTACTS:

Lily Bui, PhD  
Director, Climate and Disaster Preparedness & Resilience  
SoCal Grantmakers  
[lily@socalgrantmakers.org](mailto:lily@socalgrantmakers.org)

Kirin Kumar  
Director, Climate and Disaster Resilience  
NorCal Grantmakers  
[kkumar@ncg.org](mailto:kkumar@ncg.org)

Karla Mercado  
VP, Philanthropy CA & Public Policy  
[karla@socalgrantmakers.org](mailto:karla@socalgrantmakers.org)

Katie Oran  
Manager, Climate and Disaster Resilience  
NorCal Grantmakers  
[kaoran@ncg.org](mailto:kaoran@ncg.org)

Megan Thomas  
CEO/President  
Catalyst of San Diego & Imperial Counties  
[megan@catalystsd.org](mailto:megan@catalystsd.org)

*The* WHITE HOUSE

## PRESIDENTIAL ACTIONS

## Restoring Public Service Loan Forgiveness

The White House

March 7, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. In 2007, the Congress established the Public Service Loan Forgiveness (PSLF) Program to encourage Americans to enter the public service sector by promising to forgive their remaining student loans after they completed 10 years of service in those jobs while making 10 years of minimum payments. The prior administration abused the PSLF Program through a waiver process, using taxpayer funds to pay off loans for employees still years away from the statutorily required number of payments. Moreover, instead of alleviating worker shortages in necessary occupations, the PSLF Program has misdirected tax dollars into activist organizations that not only fail to serve the public interest, but actually harm our national security and American values, sometimes through criminal means. The PSLF Program also creates perverse incentives that can increase the cost of tuition, can load students in low-need majors with unsustainable debt, and may push students into organizations that hide under the umbrella of a non-profit designation and degrade our national interest, thus requiring additional Federal funding to correct the negative societal effects caused by these organizations' federally subsidized wrongdoing.

As President of the United States, I have a duty to protect, preserve, and defend the Constitution and our national security, which includes ending the subsidization of illegal

activities, including illegal immigration, human smuggling, child trafficking, pervasive damage to public property, and disruption of the public order, which threaten the security and stability of the United States. Accordingly, it is the policy of my Administration that individuals employed by organizations whose activities have a substantial illegal purpose shall not be eligible for public service loan forgiveness.

Sec. 2. Restoring Public Service Loan Forgiveness. The Secretary of Education shall propose revisions to 34 C.F.R. 685.219, Public Service Loan Forgiveness Program, in coordination with the Secretary of the Treasury as appropriate, that ensure the definition of “public service” excludes organizations that engage in activities that have a substantial illegal purpose, including:

- (a) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;
- (b) supporting terrorism, including by facilitating funding to, or the operations of, cartels designated as Foreign Terrorist Organizations consistent with 8 U.S.C. 1189, or by engaging in violence for the purpose of obstructing or influencing Federal Government policy;
- (c) child abuse, including the chemical and surgical castration or mutilation of children or the trafficking of children to so-called transgender sanctuary States for purposes of emancipation from their lawful parents, in violation of applicable law;
- (d) engaging in a pattern of aiding and abetting illegal discrimination; or
- (e) engaging in a pattern of violating State tort laws, including laws against trespassing, disorderly conduct, public nuisance, vandalism, and obstruction of highways.

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States,

its departments, agencies, or entities, its officers, employees, or agents, or any other person.

NEWS

ADMINISTRATION

ISSUES

CONTACT

EOP

VISIT

GALLERY

VIDEO LIBRARY

AMERICA 250

FOUNDING FATHERS



Subscribe to The White House newsletter

Your email



**SIGN UP**

Text POTUS to 45470 to receive updates

## DEPARTMENT OF EDUCATION

### 34 CFR Part 685

[Docket ID ED–2025–OPE–0016]

RIN 1801–AA28

#### William D. Ford Federal Direct Loan (Direct Loan) Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations on the Public Service Loan Forgiveness (PSLF) program under 34 CFR 685.219 to exclude employers that engage in activities that have a substantial illegal purpose. The proposed regulations would prevent taxpayer-funded PSLF benefits from being improperly provided to individuals who are employed by organizations that engage in activities that have a substantial illegal purpose. These proposed changes are intended to improve the administration of the PSLF program and provide protection for taxpayers.

**DATES:** We must receive your comments on or before September 17, 2025.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comment only once. Additionally, please include the Docket ID at the top of your comments.

Information on using *Regulations.gov*, including instructions for submitting comments, is available on the site under “FAQ.” If you require an accommodation or cannot otherwise submit your comments via *Regulations.gov*, please contact [regulationshelpdesk@gsa.gov](mailto:regulationshelpdesk@gsa.gov) or by phone at 1–866–498–2945. If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

**Privacy Note:** The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should include in their comments only information that they wish to make publicly available. Additionally, commenters should not include in their comments any personally identifiable information (PII) in comments about other individuals.

For example, if your comment describes an experience of someone other than yourself, please do not identify that individual or include any personal information that identifies that individual. The Department reserves the right to redact a portion of a comment or the entire comment at any time if any PII about other individuals is included.

#### FOR FURTHER INFORMATION CONTACT:

Tamy Abernathy, Office of Postsecondary Education, 400 Maryland Ave. SW, Washington, DC 20202. Telephone: (202) 987–0385. Email: [Tamy.Abernathy@ed.gov](mailto:Tamy.Abernathy@ed.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

The Department has a broad interest in ensuring that its programs do not contribute to or help support individuals or organizations that engage in unlawful activity.

To prevent taxpayer-funded PSLF benefits from being improperly provided to individuals who are employed by organizations that are engaged in activities that are unlawful, the Secretary proposes to exclude any organization that engages in activities that have a substantial illegal purpose from being a qualifying employer for the purposes of the PSLF program.

The proposed rule would clarify the definition of a qualifying employer, define activities that have a substantial illegal purpose, address the impact on borrower eligibility, and ensure employers are given notice and the opportunity to respond to an adverse finding.

A brief summary of these proposed regulations is available at <https://www.regulations.gov/document/ED-2025-OPE-0016-0001>.

##### II. Summary of the Major Provisions of This Regulatory Action

These proposed regulations would:

- \* Amend § 685.219(b) to modify the existing structure of the subsection into regulatory paragraph structure.

- \* Amend § 685.219(b) to add definitions for: aiding or abetting, chemical castration or mutilation, child or children, foreign terrorist organizations, illegal discrimination, other Federal Immigration laws, substantial illegal purpose, surgical castration or mutilation, terrorism, trafficking, violating State law, and violence for the purpose of obstructing or influencing Federal Government policy.

- \* Amend § 685.219(c) to establish that on or after July 1, 2026, no payment made by a borrower shall be credited as a qualifying payment for PSLF for any

month subsequent to a determination that a qualifying employer engages in activities that have a substantial illegal purpose.

- \* Amend § 685.219(e) to require the Secretary notify borrowers employed by a qualifying employer of the employer’s status if the employer is at risk of becoming or becomes ineligible for the PSLF Program.

- \* Amend § 685.219(g) to clarify that a borrower may not request reconsideration of a final determination by the Secretary that the employer lost status as a qualifying employer.

- \* Add § 685.219(h) to establish that the Secretary would determine by the preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions. Also, the Secretary will deem certain actions as conclusive evidence that the employer engaged in activities that have a substantial illegal purpose.

- \* Add § 685.219(i) to establish that the Secretary will determine that a qualifying employer engaged in activities that have a substantial illegal purpose when (1) the Secretary receives an application in which the employer fails to certify that it did not participate in activities that have a substantial illegal purpose, or (2) the Secretary otherwise determines that the qualifying employer engaged in such activities under the standard set forth in § 685.219(h).

- \* Add § 685.219(j) to establish that an employer that loses PSLF eligibility could regain qualifying employer status after (1) 10 years from the date the Secretary determines the employer engaged in activities that have a substantial illegal purpose, or (2) after the Secretary approves a corrective action plan.

- \* Add § 685.219(k) to require that if an employer regains eligibility, the Secretary will update, within 30 days, the qualifying employer list.

**Cost and Benefits:** As further detailed in the Regulatory Impact Analysis (RIA), the proposed changes would have meaningful implications for borrowers, taxpayers, and the Department. The regulatory changes outlined in this rule are designed to preserve the integrity of the PSLF program by ensuring that only borrowers employed by organizations engaged in lawful public service remain eligible for forgiveness. By excluding employers that engage in activities with a substantial illegal purpose, the rule aims to better align PSLF eligibility with the program’s statutory intent—to



reward public service. Furthermore, it ensures that the Department is not indirectly subsidizing employers who are engaging in activities that have a substantial illegal purpose.

For borrowers, the proposed rule may alter eligibility for PSLF if they are employed by organizations that no longer qualify under the revised criteria. In cases where an employer is deemed to have engaged in activities that breach federal or state law or established public policy, affected borrowers would no longer receive credit toward loan forgiveness for months worked after the effective date of ineligibility. While this may delay or prevent forgiveness for a subset of borrowers, the overall design of the regulations—including advance notice, transparency around determinations, and employer recertification pathways—helps mitigate unexpected harm. These borrowers would retain the ability to pursue PSLF through eligible employment elsewhere, thereby preserving the program's incentive structure.

For taxpayers, the proposed rule reduces the risk of inappropriate government expenditures by ensuring that loan forgiveness is granted only in circumstances where individuals are engaged in public service. Employers that engage in unlawful activity are not serving the public interest because their actions harm, rather than help, the public good. By limiting PSLF eligibility to borrowers employed by organizations that do not engage in unlawful conduct, the rule reinforces appropriate stewardship of federal funds. While the exact budgetary impact will depend on the number and type of employers determined to fall outside the clarified definition, the proposal is expected to reduce PSLF-related discharges in cases where forgiveness would otherwise have gone to borrowers employed at organizations acting illegally.

For the Department, the rule introduces new administrative responsibilities. These include reviewing court judgments and plea agreements for evidence of employer misconduct, issuing determinations, notifying borrowers of status changes, and overseeing corrective action plans. While these tasks will require the investment of staff time and system resources, the use of existing standards—such as definitions grounded in federal law and doctrines adopted by other agencies—will allow the Department to administer the regulations with efficiency and consistency. The rule also codifies a clear evidentiary framework, such as relying on court judgments or plea

agreements, which limits the need for new investigative processes.

Taken together, the Department believes these regulations represent a necessary improvement to PSLF implementation. The costs associated with employer review and administration are modest compared to the significant benefits gained, including increased transparency, program integrity, and taxpayer protection. Most importantly, the rule preserves the fundamental promise of PSLF—to support borrowers who dedicate their careers to serving the public—while guarding against the diversion of federal benefits to organizations engaged in illegal conduct.

### III. Invitation To Comment

We invite you to submit comments regarding these proposed regulations. Please clearly identify the specific section or sections of the proposed regulations that each of your comments addresses and arrange your comments in the same order as the proposed regulations. The Department will not accept comments submitted after the comment period closes.

We invite you to assist in complying with the requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing the regulatory burden that might result from these proposed regulations. Please let us know of ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect public comments about these proposed regulations by accessing *Regulations.gov*.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the Information Technology Accessibility Program Help Desk at [ITAPSupport@ed.gov](mailto:ITAPSupport@ed.gov) to help facilitate.

### Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing”<sup>1</sup> require each agency to write regulations

that are easy to understand. The Secretary invites comments on how to make the regulation easier to understand, including answers to questions such as the following:

- \* Are the requirements in the proposed regulations clearly stated?
- \* Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- \* Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity?
- \* Would the proposed regulations be easier to understand if we divided them into additional (but shorter) sections? (A “section” is preceded by the symbol “§” and a numbered heading; for example, § 668.2 General definitions.)

\* Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

\* What else could we do to make the proposed regulation easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

### IV. Background

The PSLF program was established by the College Cost Reduction and Access Act of 2007 (CCRAA), Public Law 110–84, 121 Stat. 84. In particular, the CCRAA amended section 455(m) of the Higher Education Act of 1965, as amended, to allow for cancellation of remaining loan balances for eligible Direct Loan borrowers after they have made 120 monthly payments under a qualifying repayment plan while working at a qualifying public service or nonprofit employer.

Following the enactment of the CCRAA, the Department promulgated PSLF regulations at 34 CFR 685.219, which became effective on July 1, 2009.<sup>2</sup> Since its original promulgation, 34 CFR 685.219 has been amended seven times.<sup>3</sup> Of these amendments, two, promulgated in 2020 and 2022, respectively, have substantively changed the criteria for qualifying employment for the purposes of participation in PSLF—

1. In 2020, the definition of “public service organization” was substantively

<sup>2</sup> See 73 FR 63232–01 (Oct. 23, 2008).

<sup>3</sup> See 74 FR 56005 (Oct. 29, 2009); 77 FR 76414 (Dec. 28, 2012); 80 FR 67242 (Oct. 30, 2015); 85 FR 49821 (Aug. 14, 2020); 87 FR 66063 (Nov. 1, 2022); 88 FR 43065 (July 6, 2023); 88 FR 43905 (July 10, 2023).

<sup>1</sup> 63 FR 31885 (June 1, 1998).



changed to allow employees of organizations engaged in religious activities (regardless of whether the borrower's duties included religious instruction, worship services, or any form of proselytizing) to be eligible for PSLF; and

2. In 2022, the Department changed the term “public service organization” to the term “qualifying employer” which substantively changed the definition. Subsection (v)(A) of the definition of qualifying employer referenced another term “non-governmental public service.” Notably, while previous iterations of 34 CFR 685.219 relied on definitions provided by the Bureau of Labor Statistics in regard to specific professions that were considered to be a form of public service (or left such terms undefined), the 2022 rule instead defined those terms within the section.

The Department is engaging in this rulemaking because organizations must not engage in substantial illegal activities to be a qualifying employer for purposes of the PSLF Program. Indeed, organizations that have a substantial illegal purpose are acting in contravention with the public good.

Below, we address the Secretary's broad authority to engage in rulemaking on this topic and provide a brief discussion of the relevant statutory authority regarding what organization constitutes a qualifying employer for the purposes of PSLF, the implementation of that authority, and relevant changes to 34 CFR 685.219 since its original promulgation. Additionally, we discuss the illegality doctrine utilized by the Internal Revenue Service (IRS) as a basis for the Department to promulgate regulations excluding organizations that have engaged in certain illegal activities from the definition of qualifying employers.

## V. Authority for This Regulatory Action

Congress has granted the Secretary broad authority to promulgate regulations to administer the programs administered by the Department of Education and to carry out his or her duties.<sup>4</sup> In order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, the Secretary is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing applicable programs administered by and the manner of operation of, the

Department.<sup>5</sup> These programs include the financial assistance programs authorized pursuant to title IV of the Higher Education Act authorized by HEA § 455 *et seq.*

### *Legal Basis for Denying Certain Organizations' Qualifying Employer Status*

While HEA § 455(m)(3) contains a definition of the term *public service job* (setting forth categories of employment that provide a public service),<sup>6</sup> it does not define the term *public service*. As a result of this, from the time the Department first promulgated 34 CFR 685.219(a), it has been necessary to expound upon what constitutes *public service*—a term which has the plain meaning of “any work that serves the public good”<sup>7</sup>—and the Department has repeatedly promulgated amendments to 34 CFR 685.219 to further define its meaning. The proposed change is a continuation of these efforts, as an organization that engages in activities that have a substantial illegal purpose is not providing a public service because it does not serve the public interest to engage in illegal activities. Therefore, these employers should not be considered a *qualifying employer* for the purpose of PSLF.

The Department has based its approach in this matter, in part, on the so-called “illegality doctrine” utilized when determining whether organizations qualify for tax-exempt status under Internal Revenue Code § 501(c)(3) (a requirement for non-governmental organizations to be considered a *qualifying employer* for the purposes of the PSLF program). The Department considered this doctrine because it is a tested approach taken by another executive agency to avoid subsidizing employers engaged in unlawful conduct.<sup>8</sup>

### *Background of the Illegality Doctrine*

The “illegality doctrine” imposes an implied requirement that organizations exempt from taxation under § 501(c)(3) must not have a substantial illegal purpose. This doctrine arises from a common-sense principle:

Loss of government revenues from tax exemption is often justified on the grounds that tax-exempt organizations serve desirable public purposes and lessen the government's costs and burdens. As a corollary to this public benefit principle, tax exemption is not justified when an organization has an illegal purpose because the organization does not serve a public purpose, and the organization increases the government's costs and burdens. The illegality doctrine helps ensure that the government is not subsidizing activity that it aims to prevent.<sup>9</sup>

A recent example of the application of the illegality doctrine, and a review of said application by a Federal court, is found in *Iowaska Church of Healing v. Werfel*, 105 F.4th 402 (D.C. Cir. 2024). In this case, the IRS denied an application for 501(c)(3) tax exempt status to an organization whose members' sincerely held religious beliefs involved the consumption of a hallucinogenic drug regulated by the Controlled Substances Act (“CSA”), because it determined that (1) the organization was formed in part for the illegal purpose of distributing a controlled substance; and (2) a substantial part of the organization's activities was in furtherance of that illegal purpose.<sup>10</sup> The D.C. Circuit upheld this decision on the basis that, regardless of the sincerity of its beliefs, until the organization obtained an exemption from the CSA, its primary organizational and operational purpose was facially illegal.<sup>11</sup>

### *The Department's Proposed Changes to the Definition of Qualifying Employer Aligns With, and Are Justified on the Same Basis as, the IRS's Use of the Illegality Doctrine*

Through the Illegality Doctrine, the IRS excludes organizations engaged in illegal purposes or purposes that are against established public policy from tax exemption under § 501(c)(3) on the basis that they do not serve a public purpose. The Department's proposed changes to the definition of *qualifying employer* align directly with this approach by excluding organizations engaged in activities with a *substantially illegal purpose* from being

<sup>5</sup> 20 U.S.C. 1221e–3.

<sup>6</sup> See HEA § 455(m)(3)(B).

<sup>7</sup> PUBLIC SERVICE, Black's Law Dictionary (12th ed. 2024).

<sup>8</sup> 26 U.S.C. 501(c)(3) exempts the following from taxation: Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

<sup>9</sup> The Illegality Doctrine and 501(c)(3) Organizations (2025), <https://www.congress.gov/crs-product/IF12739>.

<sup>10</sup> See *Iowaska Church of Healing*, 105 F.4th 402, 406, 407.

<sup>11</sup> *Id.* at 414.

<sup>4</sup> See 20 U.S.C. 1221e–3, see also 20 U.S.C. 1082, 3441, 3474, 3471.

included in the definition of *qualifying employer*, on the basis that such organizations are engaged in activities that are either explicit violations of State or Federal law or are otherwise in direct contravention of established public policy.

Just as benefit to the public is an underlying justification for tax exemption,<sup>12</sup> the purpose of the PSLF program is to encourage individuals to enter and continue in full-time public service employment.<sup>13</sup> All of the activities included within the definition of *substantial illegal purpose*<sup>14</sup> are either explicit violations of State or Federal law, and as such, are actions which do not serve the public good. Indeed, violations of law may increase government costs and burdens, which has the opposite effect of actions that actually promote the public good. To maintain internal coherence across the statutes at large, we presume that Congress would not have the Department subsidize activity through the PSLF program that Congress also aims to prevent in other statutes. Indeed, Congress appropriates significant public funds to combat illegal behavior, and it would frustrate the purpose of those appropriations if the Department were also subsidizing illegal behavior in the PSLF program with public funds. Therefore, the Department's exclusion of organizations engaging in such activities from the definition of *qualifying employer* is justified on the same basis that the IRS is justified in using the Illegality Doctrine to deny or revoke tax exempt status granted under § 501(c)(3): it would be paradoxical for the Department to allow organizations and borrowers to be employed by organizations that are acting against the public good in order to benefit from a program premised on encouraging individuals to enter and continue in full-time public service employment.<sup>15</sup>

<sup>12</sup> See Jean Wright and Jay H. Rotz, *Illegality and Public Policy Considerations*, in IRS Exempt Organizations Continuing Professional Education Technical Instruction Program Textbook, 17th Ed. (IRS Exempt Organizations Technical Division, ed. 1993).

<sup>13</sup> See 34 CFR 685.219(a).

<sup>14</sup> See "Substantial Illegal Purpose (§ 685.219(b)(30)) for the list of activities.

<sup>15</sup> See *Church of Scientology of California v. Comm'r of Internal Revenue*, 83 T.C. 381, 507 (1984), aff'd sub nom. *Church of Scientology of California v. Comm'r*, 823 F.2d 1310 (9th Cir. 1987) (stating "The Government also has an interest in not subsidizing criminal activity. Were we to sustain petitioner's exemption, we would in effect be sanctioning petitioner's right to conspire to thwart the IRS at taxpayer's expense. We think such paradoxes are best left for Gilbert and Sullivan").

## VI. Public Participation

Section 492 of the HEA, 20 U.S.C. 1098a, requires the Secretary to obtain public involvement in the development of proposed regulations affecting programs authorized by the title IV, HEA programs. Prior to developing this NPRM, we significantly engaged with the public to obtain advice and recommendations from individuals and representatives of groups involved in the title IV, HEA programs. This engagement included a 30-day public comment period, two days of public hearings, and three days of negotiated rulemaking.

On April 4, 2025, we published in the **Federal Register** (90 FR 14741) a notice of our intent to hold public hearings and to establish a negotiated rulemaking committee addressing topics such as PSLF, Pay As You Earn (PAYE), Income-Contingent Repayment (ICR), or other topics that would streamline and improve Federal student financial assistance programs and related regulations.

### Public Comments and Hearings

We received 7,929 written comments in response to the **Federal Register** notice. Additionally, public hearings were held on April 29 and on May 1, 2025. A total of 137 individuals testified at the hearings. We also received written comments on possible regulatory provisions that were submitted directly to the Department by interested parties and organizations.

You may view the written comments submitted in response to the April 4, 2025, **Federal Register** notice on the Federal eRulemaking Portal at *Regulations.gov*, within docket ID ED–2023–OPE–0151. Instructions for finding comments are also available on the site under "FAQ."

Transcripts of the public hearings can be accessed at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026>.

### Negotiated Rulemaking

After obtaining this extensive advice and recommendations from the public, the Secretary, by section 492 of the HEA, 20 U.S.C. 1098a, prepared draft regulations and submitted them to a negotiated rulemaking process. Further information on the negotiated rulemaking process can be found at: <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026>.

On May 12, 2025, we published a notice in the **Federal Register** (90 FR 20142) announcing our intent to establish a committee to prepare these proposed regulations. The notice set forth a schedule for committee meetings and requested nominations for individual negotiators to serve on the negotiated rulemaking committee. In the notice, we also announced the topics that the committee would address.

We chose members of the negotiated rulemaking committee from individuals nominated by groups involved in the title IV, HEA programs. We selected individuals with demonstrated expertise or experience with the PSLF program. The negotiated rulemaking committee included the following members, representing their respective constituencies:

- \* Civil rights organizations, consumer advocates, and legal assistance organizations that represent students and/or borrowers: Betsy Mayotte, The Institute of Student Loan Advisors, and Abby Shafroth (alternate), Student Loan Borrower Assistance Project.

- \* State officials, including State higher education executive officers, State authorizing agencies and State attorneys general: Rebecca Stanley, Fifteenth Judicial Circuit Solicitor's Office, and J. Charles Smith III (alternate), Frederick County State's Attorney's Office.

- \* Student loan borrowers in repayment: Emeka Oguh, PeopleJoy, and Sarah Doran (alternate), St. Vrain Valley Schools.

- \* U.S. military service members, veterans, or groups representing them: Robert H. Carey, Jr., National Defense Committee, and Faisal Sulman (alternate), Student Veterans of America.

- \* Public institutions of higher education, including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving institutions (institutions of higher education eligible to receive Federal assistance under title III, parts A and F, and title V of the HEA): Tracy A. Ireland, The Board of Regents of the University System of Georgia, and Kaity McNeill (alternate), The University of North Carolina System Office.

- \* Private nonprofit institutions of higher education including Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving institutions (institutions of higher education eligible to receive Federal assistance under title III, parts A and F, and title V of the HEA): C. Todd Jones, Association of Independent Colleges and Universities of Ohio, and



Heather Boutell (alternate), Vanderbilt University.

\* Proprietary institutions of higher education: Mary Lyn Hammer, Champion College Solutions, and April Boyd (alternate), The College of Health Care Professionals.

\* Financial aid administrators at postsecondary institutions: Alyssa Dobson, Slippery Rock University, and Helen Faith (alternate), University of Virginia.

\* Organizations representing taxpayers and the public interest: Thomas John Aiello, National Taxpayers Union, and Laurel Taylor (alternate), Candidly.

\* Federal Family Education Loan Lenders and/or Guaranty Agencies: Scott Buchanan, Student Loan Servicing Alliance, and Alex Ricci (alternate), National Council of Higher Education Resources.

The committee discussion was led by Tamy Abernathy of the Department and supported by the Department's Office of General Counsel and Office of Postsecondary Education, with Annmarie Weisman of Federal Student Aid serving as facilitator for the committee.

The negotiated rulemaking committee for these proposed regulations met from June 30 to July 2, 2025. The committee reviewed and discussed draft regulations prepared by the Department, as well as alternative language and suggestions proposed by committee members. The Department provided opportunities for public comment at the end of the first two days of negotiations. Additionally, during each negotiated rulemaking session, non-Federal negotiators obtained feedback from stakeholders that they shared with the negotiating committee.

Under the organizational protocols for negotiated rulemaking, if the committee reaches consensus on the proposed regulations, we agree to publish, without substantive alteration, a defined group of regulations on which the negotiators reached consensus—unless the Secretary reopens the process or provides a written explanation to the participants stating why he or she has decided to depart from the agreement reached during negotiations. In this instance, consensus is considered to be the absence of dissent by any member of the negotiated rulemaking committee (abstaining members are not considered to be dissenting from the proposal).

At the conclusion of the meetings on July 2, 2025, the negotiator representing civil rights organizations dissented from the draft regulations and therefore the committee did not reach consensus. For more information on the proceedings of

these meetings please visit: <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026>.

## VII. Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

### *Definitions General (§ 685.219(b))*

*Current Regulations:* Section 685.219(b) contains 23 definitions of key terms as they relate to the PSLF program.

*Proposed Regulations:* We are proposing to restructure subsection (b) of § 685.219 to make each definition its own paragraph. The paragraphs would include the 23 current definitions and add 13 new definitions in these proposed rules.

*Reasons:* Due to the proposed addition of 13 new definitions the Department believes restructuring subsection (b) in this manner will greatly aid with readability of the regulation. For ease of reference, the definitions in subsection (b) would continue to be listed in alphabetical order.

### *Aiding or Abetting (§ 685.219(b)(1))*

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219 would define aiding or abetting and use the same definition that is already in current law under Title 18, United States Code, Section 2.

*Reasons:* The term aiding or abetting can be found in two places in the proposed definition of *substantial illegal purpose* under § 685.219(b)(30): (1) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws, and (2) engaging in a pattern of aiding and abetting illegal discrimination. Under the proposed rule, a qualifying employer that engages in activities that have a substantial illegal purpose would lose its qualifying employer status if certain conditions were met (*see* discussion of proposed § 685.219(h) and (i)). The principles under 18 U.S.C. 2 state:

(1) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(2) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

The Department would adopt the definition of aiding and abetting as defined in Title 18 of the United States Code, a Federal statute. As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition in Federal law would help ensure: (1) the Department's regulations align with other definitions across Federal agencies, (2) the Department is able to make consistent determinations using established criteria regarding the status of a qualifying employer, and (3) the public understands how the Department interprets the phrase.

### *Chemical Castration or Mutilation (§ 685.219(b)(3))*

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(3) would define chemical castration or mutilation to mean the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex and the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex.

*Reasons:* The term chemical castration or mutilation can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. Under this proposed rule, a qualifying employer that engages in activities that have a substantial illegal purpose may lose its qualifying employer status if certain conditions are met.

The Department searched for the most appropriate definition of chemical castration or mutilation and located Executive Order 14187, Protecting Children From Chemical and Surgical Mutilation,<sup>16</sup> which provides the basis for the proposed definition. E.O. 14187 states:

... *chemical and surgical mutilation* means the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex; and surgical procedures that attempt to transform an individual's physical

<sup>16</sup> Executive Order 14187—Protecting Children From Chemical and Surgical Mutilation—<https://www.federalregister.gov/documents/2025/02/03/2025-02194/protecting-children-from-chemical-and-surgical-mutilation>.

appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural biological functions. This phrase sometimes is referred to as *gender affirming care*.

As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in guidance would help ensure: (1) that the Department's regulations align with other definitions across Federal agencies, (2) that the Department makes consistent determinations using established precedents regarding the status of a qualifying employer, and (3) that the public has clear expectations on how the Department interprets the term.

During negotiated rulemaking, one negotiator expressed concern that the Department staff are not medical professionals and do not have the expertise to define chemical castration or mutilation. The Department clarified that in order for a qualifying employer to lose eligibility under this definition there must be a violation of Federal or State law. In *United States v. Skremtti*, Attorney General and Reporter for Tennessee, et al.,<sup>17</sup> the U.S. Supreme Court upheld a Tennessee law restricting certain sex transition treatments for minors. Also, there are 27 States that restrict medical procedures and treatments performed on minors related to assertion that minor's sexual identity differs from their biological sex, either in part or in full.<sup>18</sup>

The Department would not find a violation of the standard (see discussion under § 685.219(h) and (i)) if there is not a Federal or State law that prohibits sex transition treatments for minors in the state where the employer is located.

#### *Child or Children (§ 685.219(b)(4))*

*Current Regulations:* None.

*Proposed Regulations:* The Department proposes that for the sole and specific purpose of the PSLF Program the term "child" or "children" means an individual or individuals under 19 years of age.

*Reasons:* The term child or children can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. The Department believes that it is necessary to define the

term for the purposes of the PSLF program.

The Department searched for the most appropriate definition of child or children and located guidance in Executive Order 14187, Protecting Children From Chemical and Surgical Mutilation, which provides the basis for the proposed definition. Executive Order 14817 states—

"The term "child" or "children" means an individual or individuals under 19 years of age."

During rulemaking, a few negotiators raised concerns that the age of majority in many States is 18 years of age. The negotiators believed that the Department's proposed definition could penalize a qualifying employer that performed certain medical procedures that were banned for minors to an individual that a State considered to be a legal adult. To address this concern, the Department clarified that the entire clause under proposed § 685.219(b)(30) must be considered. The illegal activities in which the organization is engaging—specifically the chemical and surgical castration or mutilation of children must be in violation of Federal or State law of the state where the employer is located (*see also* the discussion of proposed § 685.219(b)(4), above, and § 685.219 (b)(31)), below.

#### *Foreign Terrorist Organizations (§ 685.219(b)(10))*

*Current Regulations:* None.

*Proposed Regulations:* Under proposed § 685.219(b)(10), the Department would define the term *foreign terrorist organizations* to mean organizations on the list published under paragraph (a)(2)(A)(ii) under the Immigration and Nationality Act (8 U.S.C. 1189).

*Reasons:* The Department proposes to adopt the definition of foreign terrorist organizations as defined in the Immigration and Nationality Act, a Federal statute. As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in Federal law helps to ensure that the Department's regulations align with other definitions across Federal agencies. As we explained during negotiated rulemaking, as of June 2025, there were over 70 foreign terrorist organizations designated by the United States Department of State.<sup>19</sup>

To help the Department determine whether a qualifying employer or organization is engaging in activities

with a substantial illegal purpose—including supporting terrorism, the Department would need a definition for foreign terrorist organizations. The Department believes utilizing an existing definition of foreign terrorist organizations would ensure consistency and clarity for the community. The Department would then be able to determine the nexus between a qualifying employer and whether that qualifying employer met the conditions of engaging in a substantially illegal purpose.

#### *Illegal Discrimination (§ 685.219(b)(12))*

*Current Regulations:* None.

*Proposed Regulations:* Under proposed § 685.219(b)(12), the Department would define the term "illegal discrimination" to mean a violation of any Federal discrimination law including, but not limited to, the Civil Rights Act of 1964 (42 U.S.C. 1981 *et seq.*), Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*).

*Reasons:* The Department proposes to enumerate a non-exhaustive list of Federal anti-discrimination laws in the definition of illegal discrimination. These Federal laws are some of the chief anti-discrimination laws that we believe capture the intent of the PSLF Executive Order which keeps qualifying employers accountable to not engage in illegal discrimination.

The definition of illegal discrimination is limited to only Federal discrimination laws rather than State discrimination laws. Limiting the scope to only Federal laws will help reduce the burden on the Department when assessing whether a qualifying employer engages in illegal discrimination as there are many State laws addressing discrimination. Furthermore, the Department would leverage its existing relationship with other Federal partners to assist in determining if a qualifying employer engages in illegal discrimination in the context of Federal laws. The Department believes the listed Federal laws in paragraph (b)(12) should cover most of the illegal discrimination employers could be involved in and help ensure that the Department is consistent and uniform in addressing issues of illegal discrimination to a narrow set of Federal laws.

The Department notes that we reserved the Secretary's authority to include other Federal anti-discrimination laws in this definition that are not enumerated by including the phrase "including but not limited to." In crafting the definition of illegal discrimination, we balanced the need to

<sup>17</sup> *United States v. Skremtti*, Attorney General and Reporter for Tennessee, et al.—[https://www.supremecourt.gov/opinions/24pdf/23-477\\_2cp3.pdf](https://www.supremecourt.gov/opinions/24pdf/23-477_2cp3.pdf).

<sup>18</sup> Amy Herron, *These 27 States Have Restricted Gender-Transition Treatments for Minors Since 2021*, N.Y. Times, June 18, 2025 (available at <https://www.nytimes.com/2025/06/18/us/politics/states-trans-treatments-sctus.html>).

<sup>19</sup> List of foreign terrorist organizations designated by the State Department: <https://www.state.gov/foreign-terrorist-organizations/>.



outline specific laws to give qualifying employers clear expectations to curb illegal discrimination with the need to also cover other forms of illegal discrimination that are not enumerated that could be a cause of concern in the future.

During negotiated rulemaking sessions, a negotiator acknowledged that, while the Department has expertise in helping ensure that discrimination does not exist in educational settings, it does not have the expertise or authority to enforce other types of discrimination, including employment discrimination law. The negotiator also expressed concern that a “chilling effect” could exist in the reporting of discrimination. In turn, the employee would lose PSLF eligibility if the employer was found liable for engaging in illegal discrimination. In response, the Department pointed out the circular nature of the argument if the Department cannot enforce the rules preventing illegal discrimination due to the fear of the “chilling effect.” Therefore, we reiterate that we have an interest in helping ensure that PSLF qualifying employers do not engage in illegal discrimination.

#### *Other Federal Immigration Laws* (§ 685.219(b)(17))

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(17) would define *other Federal Immigration laws* to mean any violation of the Immigration and Nationality Act (8 U.S.C. 1105 *et seq.*) or any other Federal immigration laws.

*Reasons:* The term *other Federal immigration laws* can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30)(i): aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws. The Department believes that it is necessary to define the term for the purpose of determining whether a qualifying employer engaged in activities that would restrict participation in the PSLF program.

U.S. immigration policy is governed largely by the Immigration and Nationality Act (INA), which was first codified in 1952 and has been amended significantly several times since. U.S. immigration policy contains two major aspects. One facilitates migration flows of foreign nationals into the United States; another focuses on immigration enforcement and removal. Immigration functions authorized by Congress under the INA and other laws are carried out by several executive branch agencies.<sup>20</sup>

While the INA is the main Federal statute governing U.S. immigration policy, there are other immigration statutes that are not part of the INA. The Department chooses not to limit its authority to review a qualifying employer under the proposed standard (*see* proposed § 685.219(h) and (i)) to the INA. As such we included the phrase “or any other Federal immigration laws” as part of the definition.

#### *Qualifying Employer* (§ 685.219(b)(27))

*Current Regulations:* Current § 685.219(b) contains definitions of key terms, including the definition of *qualifying employer*. Under the current regulations, the term *qualifying employer* generally includes Federal, State, local, and Tribal Government agencies; public child or family service agencies; nonprofit organizations that are described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of the Internal Revenue Code; and other organizations that provide certain specific public services listed in § 455(m)(3)(B) of the HEA, other than a business organized for profit, a labor union, or a partisan political organization.

*Proposed Regulations:* The Department proposes modifying the existing definition of *qualifying employer* in § 685.219(b). At the direction of the Secretary and consistent with the guidance in E.O. 14235,<sup>21</sup> the Department would revise the definition of *qualifying employer* to exclude organizations that engage in activities that have a substantial illegal purpose.

*Reasons:* The proposed modified definition of *qualifying employer* would align with the policy in E.O. 14235 to protect the integrity of the PSLF program by ensuring that loan cancellation under the program does not subsidize organizations that engage in activities that have a substantial illegal purpose.

The Department is concerned that the PSLF program has sent tax dollars to employees of organizations that are engaged in activities that are illegal, thereby subsidizing their employment.

The proposed changes to the definition would benefit taxpayers by ending support for organizations that engage in illegal activities such as aiding and abetting illegal immigration, human trafficking, damage to government property, and other actions

that threaten our country. The proposed definition would also benefit student loan borrowers by redirecting them to employment with organizations that serve the public good.

During the negotiated rulemaking meetings, the Department proposed a refined definition of *qualifying employer* as a method to protect the objectives and efficacy of the PSLF program. Negotiators and public commenters expressed concerns that such an approach might create a “chilling effect” that could discourage borrowers from entering certain career fields in public service. The Department has taken steps to address the issues raised with the draft regulations and believes that the benefits of these proposed regulations outweigh concerns that have been raised. The modified definition would provide notice to borrowers about the qualifying employer requirements when applying for or certifying eligibility under the PSLF program. The modified definition would also provide clarity that an organization that participates in activities that have a substantial illegal purpose is explicitly excluded from the list of qualifying employers for purposes of determining eligibility under the program.

#### *Substantial Illegal Purpose* (§ 685.219(b)(30))

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(30) would define substantial illegal purpose as:

- (1) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;
- (2) supporting terrorism, including by facilitating funding to, or the operations of, cartels designated as Foreign Terrorist Organizations consistent with 8 U.S.C. 1189, or by engaging in violence for the purpose of obstructing or influencing Federal Government policy;
- (3) engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law;
- (4) engaging in the trafficking of children to states for purposes of emancipation from their lawful parents in violation of Federal or State law;
- (5) engaging in a pattern of aiding and abetting illegal discrimination; or
- (6) engaging in a pattern of violating State laws as defined in paragraph (34) of this subsection.

*Reasons:* Illegal activities, including illegal immigration, as well as activities which are against established public policy, are a threat to our national security and to the social and economic

<sup>21</sup> Restoring Public Service Loan Forgiveness—<https://www.federalregister.gov/documents/2025/03/12/2025-04103/restoring-public-service-loan-forgiveness>.

<sup>20</sup> Primer on U.S. Immigration Policy—<https://www.congress.gov/crs-product/R45020>.

stability of the United States. The Department has an overriding governmental interest in promoting policies to thwart such unlawful conduct. Further, the President has a constitutional duty of ensuring that laws be faithfully executed. On March 7, 2025, President Trump signed E.O. 14235, directing the Secretary of Education to propose revisions to 34 CFR 685.219 that ensure that loan cancellation under the PSLF Program excludes organizations that engage in activities that have a substantial illegal purpose and identifying certain activities which are illegal or contrary to public policy. The Department has chosen to use its statutory authority to codify the guidance outlining activities that have a substantial illegal purpose in E.O. 14235 in regulation.

*Surgical Castration or Mutilation*  
(§ 685.219(b)(31))

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(31) would define surgical castration or mutilation as surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her biological sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy his or her natural biological functions.

*Reasons:* The term surgical castration or mutilation can be found in the proposed definition of substantial illegal purpose under § 685.219(b)(30): engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law. Under this proposed rule a qualifying employer that engages in activities that have a substantial illegal purpose may lose its qualifying employer status if certain conditions are met.

The Department searched for the most appropriate definition of surgical castration or mutilation and located Executive Order 14187, which provides the rationale for the proposed definition. Executive Order 14187 states:

... *chemical and surgical mutilation* means the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex; and surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural

biological functions. This phrase sometimes is referred to as *gender affirming care*.

As the Department expressed during negotiated rulemaking, utilizing a pre-existing definition elsewhere in guidance would help ensure: (1) that the Department's regulations align with other definitions across Federal agencies, (2) that the Department is able to make consistent determinations using established precedent regarding the status of a qualifying employer, and (3) that the public is aware how the Department interprets the phrase.

During negotiated rulemaking, one negotiator expressed concern that the Department staff are not medical professionals and do not have the expertise to define surgical castration or mutilation. The Department clarifies that, in order for a qualifying employer to lose eligibility under this definition, there must be a violation of State law. In the *United States v. Skremtti*, Attorney General and Reporter for Tennessee, et al.,<sup>23</sup> the U.S. Supreme Court upheld a Tennessee law restricting certain sex transition treatments for minors and, as of June, 2025,<sup>24</sup> there are 27 States that restrict certain medical procedures and treatments performed on minors related to assertions that minors' sexual, identity differs from their biological sex.

The Department would not find a violation of the standard (*see* discussion under § 685.219(h) and (i)) if there is not a Federal or State law in the state where the employer is located that prohibits surgical castration or mutilation of minors. In other words, if those types of procedures are legal in the state where the employer resides and the employer participates or supports such activities, there would be no violation.

*Terrorism* (§ 685.219(b)(32))

*Current Regulations:* None.

*Proposed Regulations:* Proposed 685.219(b)(32), would adopt the definition of "terrorism" used in Title 18, United States Code, Section 2331 (18 U.S.C. 2331).

*Reasons:* The Department proposes to adopt the definition of terrorism as defined in the criminal code. As we explained during negotiated rulemaking, utilizing a pre-existing

definition elsewhere in Federal law would help ensure that the Department's regulations align with other definitions across Federal agencies. To that end, we propose to use the definition of terrorism in 18 U.S.C. 2331. Under Federal law, terrorism includes acts of international and domestic terrorism that involve violated acts or acts dangerous to human life that are illegal and appear to be intended to intimidate or coerce civilians or the Government.

To help the Department determine whether a qualifying employer or organization is engaging in activities with a substantial illegal purpose, including supporting terrorism, the Department requires a definition for terrorism. The Department would then be able to determine the nexus between a qualifying employer and whether that qualifying employer supported terrorism as defined in our regulations.

*Trafficking* (§ 685.219(b)(33))

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(33) would add a new definition for *trafficking*, which is a key term under the broader *substantial illegal purpose* definition.

*Reasons:* The proposed definition at § 685.219(b)(33) is necessary to bring clarity to the specific activities that constitute having a substantial illegal purpose. Because trafficking is a key term listed under the broader *substantial illegal purpose* definition, the Department must provide a definition for the term. Additionally, proposed § 685.219(b)(33) provides greater specificity for the Secretary, in his or her authority under the HEA, to make the determination if an organization has engaged in illegal activities, for the purposes of determining eligibility under the PSLF program.

The Department researched existing Federal laws and statutes but did not find a statute that matched the context. For example, current regulatory text at 28 CFR 1100.25 provides a definition for "severe forms of trafficking," however the definition was limited to situations of sex trafficking only. In the absence of an appropriate definition under existing law, the Department chose to develop its own proposed definition to better align with the intent of Executive Order 14187 to specifically protect children from illegal transportation across State lines for the purposes of emancipation from their lawful parents or guardian. The Department believes the proposed definition will effectively serve the purpose of preventing organizations

<sup>23</sup> *United States v. Skremtti*, Attorney General and Reporter for Tennessee, et al.—[https://www.supremecourt.gov/opinions/24pdf/23-477\\_2cp3.pdf](https://www.supremecourt.gov/opinions/24pdf/23-477_2cp3.pdf).

<sup>24</sup> Amy Herron, These 27 States Have Restricted Gender-Transition Treatments for Minors Since 2021, N.Y. Times, June 18, 2025 (available at <https://www.nytimes.com/2025/06/18/us/politics/states-trans-treatments-scotus.html>), <https://www.nytimes.com/2024/12/04/us/gender-transition-bans-states.html>.



from engaging in these types of trafficking activities.

*Violating State Law (§ 685.219(b)(34))*

*Current Regulations:* None.

*Proposed Regulations:* Under proposed 685.219(b)(34), *violating State law* would mean a final, non-default judgment by a State court of: (i) trespassing; (ii) disorderly conduct; (iii) public nuisance; (iv) vandalism; or (v) obstruction of highways.

*Reasons:* The Department believes we must create a definition to establish a clear and consistent framework for evaluating violations of State law. The proposed definition would provide an exhaustive list of State law violations that would amount to activity that has a substantial illegal purpose. Qualifying employers would have the ability to recognize actions or activities that have a substantial illegal purpose and either avoid or resolve them prior to losing eligibility.

The Department originally proposed “Violating State Tort Law” as the title for the definition. However, during negotiated rulemaking, negotiators commented that the listed violations were a combination of both civil and criminal offenses; therefore, the Department removed the reference to “tort”.

Additionally, because of negotiations, the Department proposed to remove the definition of *violating State laws* given we believed it was defined adequately under the definition of substantial illegal purpose. However, a negotiator noted that we inadvertently removed the condition that the State law violation must be confirmed as a final, non-default judgment. The Department reintroduced the language into the proposed definition as we believed it ensured an employer, suspected of having violated State law under this proposed rule, was provided consistency and fairness when deciding to rely upon a decision made by court or tribunal. The Department believes a non-default judgment clarifies this standard by relying upon a court decision made after a full trial or hearing.

*Violence for the Purpose of Obstructing or Influencing Federal Government Policy (§ 685.219(b)(35))*

*Current Regulations:* None.

*Proposed Regulations:* Proposed § 685.219(b)(35) would define *violence for the purpose of obstructing or influencing Federal Government policy*, which is one of the activities explicitly mentioned in the broader *substantial illegal purpose* definition. Section 685.219(b)(35) leverages an existing

statutory definition for *crime of violence*, as found under 18 U.S.C. 16.

*Reasons:* The proposed definition at § 685.219(b)(35) is necessary to bring clarity to the specific activities that constitute having a substantial illegal purpose. Additionally, § 685.219(b)(35) provides greater specificity for the Secretary, in his or her authority under the HEA, to make the determination if an organization has engaged in illegal activities, for the purposes of determining eligibility under the PSLF program. In defining *violence for the purpose of obstructing or influencing Federal Government policy*, the Department sought an appropriate reference to violence in existing Federal laws. A *crime of violence* within 18 U.S.C. 16, generally involves attempted, threatened, or physical force against a person or property of another. The Department believes this existing reference is appropriate for use in our proposed definition and simplifies the determination process for the Department by leveraging existing law. Borrowers as well as their employers will also benefit from the approach of using existing law as doing so applies consistency, familiarity, and fairness.

*Borrower Eligibility (§ 685.219(c))*

*Current Regulations:* Section 685.219(c) provides the borrower eligibility requirements for purposes of PSLF. Specifically, § 685.219(c)(2) outlines the conditions when a borrower would have been considered to have made a qualifying monthly payment under § 685.219(c)(1)(iii).

*Proposed Regulations:* Under proposed § 685.219(c)(2), the Secretary would add a new condition under paragraph (c)(4) under which a borrower would not have been considered to have made a qualifying payment under paragraph (c)(1).

Under proposed § 685.219(c)(4), effective on or after July 1, 2026, through a standard described in § 685.219(h), no payment would be creditable as a qualifying payment for any month subsequent to a determination that a qualifying employer engaged in activities that have a substantial illegal purpose.

*Reasons:* Under the PSLF program, borrowers must meet the following criteria: be employed by a qualifying employer such as a Federal, State, local, or Tribal government or qualifying not-for-profit organization; work full-time for that agency or organization; have Direct Loans (or consolidate other Federal student loans into a Direct Loan); repay their loans under a qualifying repayment plan; and make a total of 120 qualifying monthly

payments that need not be consecutive.<sup>25</sup> The proposed rules in 685.219(c) are twofold. First, the Department adds an exception clause in paragraph (c)(2) that states a borrower would not be considered to have made a PSLF-qualifying payment during a period or periods subsequent to which the qualifying employer has been determined to have engaged in substantial illegal activity. Second, by adding a new paragraph (c)(4), the Department makes certain the effective date of these regulations that impact a borrower's eligibility. The Department believes that addressing the impact these regulations have on a borrower's eligibility with an effective date of July 1, 2026, only allows for prospective adjudications. By selecting a date that impacts a borrower's eligibility for PSLF, borrowers have clarity as to when their payments would be considered qualifying payments.

*Application Process (§ 685.219(e))*

*Current Regulations:* Section 685.219(e) outlines a process for a borrower to apply for loan forgiveness under the PSLF program. Specifically, the process directs that a borrower may request loan forgiveness by filing an application approved by the Secretary, and then directs the Secretary to, among other things, make determinations and notify the borrower of forgiveness if sufficient information is available. If there is insufficient information available, the Secretary may request that the borrower provide additional information in order to make a determination of qualifying employment or eligible payments based on other documentation provided by the borrower. Upon the Secretary's determination that a borrower meets forgiveness eligibility requirements, the Secretary will notify the borrower and forgive the outstanding balance of the eligible loans.

*Proposed Regulations:* Proposed § 685.219(e)(9) would modify the current process to require the Secretary to notify the borrower when an employer may become an ineligible employer under subsection (h) of this section. Proposed § 685.219(e)(10) would provide that, if the Secretary has determined that the employer is no longer a qualifying employer, the Secretary would notify that borrower of the employer's status.

*Reasons:* Modifying § 685.219(e) is necessary to conform with the Department's proposed regulatory amendment at subsection (h) within the

<sup>25</sup> <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service/>



same section. Whereas subsections (h) and (i) provide the standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose and the process for making such determinations, subsection (e) clarifies the application process by directing the Secretary to notify borrowers when an employer may become ineligible or is no longer considered a qualifying employer for purposes of the PSLF program as it relates to the proposed standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose. The proposed borrower notification process provides transparency and insight regarding current or former employers that may become ineligible or are ineligible as a result of the proposed subsection (h). Should a borrower be employed by an affected employer, such notifications may assist a borrower in making informed decisions about their employment should they wish to continue making qualifying PSLF payments while employed at a qualifying employer.

*Borrower Reconsideration Process*  
(§ 685.219(g))

**Current Regulations:** Section 685.219(g) outlines a process for the reconsideration of a student loan borrower's eligibility under the PSLF program. Specifically, current § 685.219(g) outlines the conditions for a borrower to request that the Secretary reconsider whether the borrower's employer or any payment on their qualifying loan meets the requirements for credit toward loan forgiveness under the program.

**Proposed Regulations:** Proposed § 685.219(g) would modify the current process for requesting reconsideration by adding an additional subparagraph that states a borrower may not request reconsideration when the Secretary's determination was made based upon an organization's ineligibility as a qualifying employer due to engaging in activities that have a substantial illegal purpose.

**Reasons:** Modifying § 685.219(g) is necessary to conform with the Department's proposed regulatory amendment at subsection (h) within the same section. Proposed subsection (h) describes the standard the Secretary would use to determine when a qualifying employer has engaged in substantial illegal activities that would impact a borrower's eligibility under the PSLF program. If an organization has been determined to be ineligible as a qualifying employer under the standard at proposed subsection (h), it would

follow that there would be no recourse for a borrower as the employer, not the borrower, is the entity that has not met the eligibility requirements for the PSLF program. It is therefore necessary to modify the regulatory text at subsection (g) to align the reconsideration process with the proposed addition at subsection (h).

During negotiated rulemaking, negotiators expressed concerns that borrowers would have no recourse to contest an employer's loss of qualifying status. The Department noted that, under the standard outlined in subsection (h), the employer itself will have the opportunity to respond to the Department's assertion of the employer having engaged in activities that have a substantial illegal purpose. Also, the Department added subsection (j) that would prescribe the process for regaining eligibility as a qualifying employer if qualifying status were ultimately revoked by the Department.

*Standard for Determining When a Qualifying Employer Has Engaged in Activities That Have a Substantial Illegal Purpose* (§ 685.219(h))

**Current Regulations:** None.

**Proposed Regulations:** Under § 685.219(h), the Department would create a standard for determining that a qualifying employer engaged in activities that have a substantial illegal purpose.

The Secretary would determine by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions (by gauging both frequency or severity) and would not find that the organization has a substantial illegal purpose if it has only engaged in illegal activities. In making such a determination, the Secretary would accept the following as conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

(1) A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose;

(2) A plea of guilty or *nolo contendere*, whereby the employer admits to have engaged in activities that have substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have substantial illegal purpose; or

(3) A settlement that includes admission by the employer that it engaged in activities that have a

substantial illegal purpose as described in subsection (h) of this section.

Finally, nothing in this proposed standard shall be construed to authorize the Secretary to determine an employer has a substantial illegal purpose based upon the employer or its employees exercising their protected First Amendment rights, or any other rights protected under the Constitution.

**Reasons:** The Secretary seeks to establish a clear and consistent framework for how the Department would determine that a qualified employer engaged in activities that have a substantial illegal purpose. First, the Department would use the preponderance that it receives from sources specified in regulation (*see* discussion under proposed § 685.219(i)). The Department arrived at this standard because the preponderance of the evidence typically means that something is more likely true than not true. On the final day of negotiated rulemaking, the Department offered using a clear and convincing standard to negotiate in good faith due to negotiators' concerns that the preponderance of evidence was not a high enough standard; however, the committee did not reach consensus. With this proposed rule we have returned to the preponderance of evidence standard. The Department believes that the preponderance of evidence is the most appropriate standard of proof because of the severity of the activities that have a substantial illegal purpose. Prior to losing status as a qualified employer, the Department would notify the employer of an initiated action to determine if the employer engaged in activities that have a substantial illegal purpose. This is the Department's attempt to outline the benchmarks that will be used in the determination and offer due process to a qualifying employer.

During this time, payments made by employees of the qualifying employer would still be counted towards PSLF. If the employer chooses not to respond, then the Secretary may move forward with revoking qualified employer status, thus subsequent payments made by a borrower would no longer be counted towards PSLF unless certain conditions were met (*see* discussion of proposed subsections (i) and (j)).

If the employer chooses to respond, the Secretary will decide on the qualified employer's status after the response has been submitted and reviewed by Department staff. Based on the response, the Secretary may choose to maintain or revoke the employer's qualifying status.

The activities that have a substantial illegal purpose would occur on or after July 1, 2026. This means that activities that have a substantial illegal purpose that took place and ended prior to July 1, 2026, would not be considered in the Secretary's review under this standard.

During rulemaking, some of the negotiators expressed concern that the Department would use authority under this proposed standard to target qualifying employers that did not align with the current Administration's values. Negotiators expressed concerns because the language provided to negotiators prior to the committee meetings stated: "The Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose." In order to allay concerns, the Department added language that the Secretary would also consider the materiality, meaning the significance, of the activities of the qualifying employer by gauging both frequency and the severity of said activities, in deciding whether the activities amount to a substantial illegal purpose. As stated in the text of the regulation, this is because the Department does not intend to penalize a qualifying employer prior to the proposed effective date of the regulations.

The Secretary would presume that the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose, thus revoking qualifying employer status: (1) A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose; (2) A plea of guilty or *nolo contendere*, whereby the employer admits they engaged in activities that have a substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have a substantial illegal purpose; or (3) A settlement that includes admission by the employer that it engaged in activities that have a substantial illegal purpose. In crafting options for the proposed standard, the Department explored judgments and legal proceedings in a State or Federal court or tribunal of competent jurisdiction. Reliance on judgments and legal proceedings in any tribunal would reduce the burden on the Department since, in this instance, the Department itself would not adjudicate whether the employer engaged in activities that have a substantial illegal purpose. Instead, we would rely on processes that took place in court to determine that the employer

engaged in illegal activities that have a substantial illegal purpose.

During rulemaking, some of the negotiators expressed concern that the Department would use authority under this proposed standard to target free speech. For example, one negotiator stated that, if an employer releases information in support of transgender rights but does not engage in the chemical or surgical castration or mutilation of a child or children in violation of a State or Federal law, that the Department may revoke qualifying employer status. Another negotiator stated that many legal aid organizations with 501(c)(3) status work with undocumented clients and feared losing qualifying employer status due to the Department's determination that they are aiding and abetting violations of Federal immigration laws. Therefore, the Department clarified that nothing in the standard would be construed to authorize the Secretary to determine an employer engaged in activities that have a substantial illegal purpose based upon the employer or the employees exercising their protected First Amendment rights, or any other rights protected under the Constitution.

*Process for Determining When an Employer Engaged in Activities That Have a Substantial Illegal Purpose (§ 685.219(i))*

*Current Regulations:* None.

*Proposed Regulations:* The Department would create a standard for determining when a qualifying employer is engaged in activities that have a substantial illegal purpose. The Department would determine that a qualifying employer violated the standard when the Secretary receives an application in which the employer fails to certify that it did not participate in activities that have a substantial illegal purpose; or would determine that the qualifying employer engaged in activities that have a substantial illegal purpose, unless, prior to the issuance of the Secretary's final determination, the Secretary approves a corrective action plan (*see* discussion in § 685.219(j)).

*Reasons:* The Department intends to determine in regulations when a qualifying employer could lose qualifying status for the PSLF program to make clear to borrowers and qualifying employers the effective date of loss of qualifying status for purposes of qualifying employment for PSLF. First, the Department would amend the PSLF Form to allow a qualifying employer to self-certify that it has not engaged in activity that has a substantial illegal purpose. Upon receiving that non-certification, the Secretary would

remove the employer from the qualifying employer list, because the employer is affirming that it engaged in activities that have a substantial illegal purpose.

Second, the Secretary would determine that a qualifying employer engaged in activity that has a substantial illegal purpose, resulting in the eligible employer losing qualifying status. This is because not all signatories will correctly acknowledge on the PSLF form—either through an inadvertent mistake, unknowingly, or knowingly and willfully concealing those facts—whether the employer engaged in activities that have a substantial illegal purpose.

During negotiated rulemaking, the Department heard a concern that there could be a lapse in qualifying status for an employer that was ultimately found by the Department to have engaged in activities that have a substantial illegal purpose and attempted to regain eligibility status via a corrective action plan. While under proposed § 685.219(j) an employer can submit a corrective action plan to regain qualifying status, the process may take time for approval which would leave employees without access to PSLF for an undefined length of time. Therefore, the Department proposes to add that the employer may maintain qualifying status if, prior to the issuance of the Secretary's final determination, the Secretary approves a corrective action plan. If the corrective action plan is approved prior to the Secretary's final decision of a violation of the standard, there will be no lapses in the qualifying employer's status.

*Current Regulations:* None.

*Proposed Regulations:* The Department also would propose a new paragraph (i)(2). If an employer is operating under a shared identification number or other unique identifier, the Secretary shall consider the organization to be separate if the employer is operating separately and distinctly, for the purposes of determining whether an employer is eligible.

*Reasons:* During rulemaking, there was a significant discussion regarding shared Federal employer identification numbers (EIN). The EIN is a unique Federal tax identification number issued by the IRS for businesses, tax-exempt organizations, and other entities. The Department requests the EIN on the PSLF form and matches the EIN with the IRS' publicly available listing of tax-exempt organizations and other entities to ensure that the employer is a qualifying employer for PSLF purposes. Negotiators noted that there are examples of entire city governments that

share an EIN. If a qualifying employer is determined by the Secretary to have engaged in activities that have a substantial illegal purpose, entire city governments, including police and fire departments, could lose eligibility for PSLF. While the Department believes the Secretary already has the authority to consider agencies as separate under one EIN, we added a provision in the regulations that allow the Secretary to separate employers that are under one EIN, should an agency with a shared EIN lose qualifying employer status. In the regulations, we do not refer directly to the EIN but instead use the phrase “shared identification number or other unique identifier” to safeguard against changes or renaming of the EIN to another term in the future.

A qualifying employer could also choose to provide more information about the structure of the organization during the notice and response phase under the standard in subsection (h). The Secretary maintains ultimate authority to make decisions regarding separation of agencies under a single EIN.

#### *Regaining Eligibility as a Qualifying Employer (§ 685.219(j))*

*Current Regulations:* None.

*Proposed Regulations:* The proposed addition of § 685.219(j) describes a process for an employer who has lost eligibility due to engaging in activities that have a substantial illegal purpose, to regain eligibility, and become a qualifying employer again. An employer who has lost eligibility may regain eligibility after:

(1) ten (10) years from the date the Secretary determines the organization engaged in activities that have a substantial illegal purpose if, at, or after that time the organization certifies on a borrower’s subsequent application that the organization is no longer engaged in activities that have a substantial illegal purpose; or

(2) the Secretary approves a corrective action plan that is signed by the employer that includes: a certification that the employer is no longer engaging in activities that have a substantial illegal purpose; a report describing the employer’s compliance controls that are designed to ensure that the employer will not engage in activities that have a substantial illegal purpose in the future; and any other terms or conditions imposed by the Secretary designed to ensure that employers do not engage in actions or activities that have a substantial illegal purpose.

*Reasons:* During negotiations, several negotiators expressed that an employer that lost its qualifying status under

PSLF would have several negative consequences including that it would permanently ban employers from PSLF that may no longer be engaged in activities that have a substantial illegal purpose. Negotiators mentioned that borrowers often make major life decisions about employment based on access to PSLF.

As noted above, the initial draft regulations did not contain provisions for employers to regain eligibility as a qualifying employer. In an attempt to negotiate in good-faith to address the concerns mentioned by negotiators and to reach consensus on the draft regulations, the Department offered two changes whereby an employer may regain eligibility ten years from the date of determination, or, if the employer did not want to wait the ten-year period, then the employer would have the ability to submit a corrective action plan and statement to the Department that it is no longer engaged in activity that has a substantial illegal purpose. While there were tentative agreements on these two changes, one negotiator dissented on approving the draft regulations, and the negotiated rulemaking committee failed to reach consensus. Therefore, in proposing these regulations, the Department continues to agree in principle that providing an employer with a process to regain qualifying status is an important component. However, the agreement to allow reinstatement within five years was a major compromise offered by the Department in the negotiated rulemaking to gain support from committee members on other provisions in the draft regulations. In proposing these regulations, the Department believes that a period of 10 years would better ensure that employers do not continue to engage in behavior that has a substantial illegal purpose.

#### *Borrower Notification of Regained Eligibility (§ 685.219(k))*

*Current Regulations:* None.

*Proposed Regulations:* The proposed addition of § 685.219(k) describes a process under which the Department would notify student loan borrowers if an organization regained eligibility as a qualifying employer, based upon the standards outlined in proposed subsection (j) of the same section, for the purpose of correctly certifying or applying for loan cancellation under the PSLF program.

*Reasons:* During the negotiated rulemaking session, negotiators raised concerns about the importance of notifying borrowers, who may become eligible to apply or re-eligible after initial certification, when and if their

employer regained eligibility as a qualifying employer. Although operational procedures for the Department are not commonly outlined in regulatory text, we agreed with the committee’s recommendation to incorporate a general borrower notification requirement into the proposed rules for PSLF to reflect the Department’s commitment to increase transparency and efficiency in our administration of the Federal student loan programs.

## **X. Regulatory Impact Analysis**

### *Executive Orders 12866 and 13563*

Under E.O. 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the E.O. and subject to review by OMB. Section 3(f) of E.O. 12866 defines a “significant regulatory action” as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the E.O.

The Department estimates the net budgetary impacts to be –\$1.537 billion from increased transfers from borrowers who no longer receive PSLF to the Federal Government. Quantified economic impacts include annualized transfers of –\$167 million at 3 percent discounting and \$173 million at 7 percent discounting, and annual quantified costs related to compliance costs and administrative updates to Government systems. Therefore, based on our estimates, OIRA has determined that this final action is “economically significant” under section 3(f)(1) of Executive Order 12866 and subject to OMB review 3(f)(1).

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent



permitted by law, Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and considering, among other things and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior, or provide information that enables the public to make choices.

E.O. 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

As required by OMB Circular A–4, we compare the proposed regulations to the current regulations. In this regulatory impact analysis (RIA), we discussed the need for regulatory action, potential costs and benefits, net budget impacts, and the regulatory alternatives we considered.

Elsewhere in this section under the *Paperwork Reduction Act of 1995*, we identify and explain burdens specifically associated with information collection requirements.

#### 1. Need for Regulatory Action

The Department has identified a critical and urgent need for comprehensive regulatory reform within the PSLF program. The PSLF program was established to encourage public service careers by offering loan forgiveness to eligible borrowers. Despite the program’s intent, the current regulatory framework has exposed the PSLF program to potential misuse, with taxpayer dollars being allocated to borrowers working for organizations

that do not align with the program’s public service mission.

In response to these challenges, the Department proposed a series of regulatory changes designed to ensure the program’s integrity by limiting benefits to borrowers employed by organizations that meet the established public service criteria. The proposed regulations will exercise the Secretary’s authority under title IV of the HEA, specifically 20 U.S.C. 1087e(m), 20 U.S.C. 1221e–3, and implemented in 34 CFR 685.219, to refine the requirements for qualifying employers and ensure that PSLF benefits are distributed only to those working for organizations that provide public service, aligned with the goals of the HEA.

#### Clarifying the Secretary’s Broad Authority and Defining Public Service Employment

The Secretary’s authority to establish rules and regulations for the administration of the Direct Loan Program, including the PSLF program, is grounded in the HEA, particularly under Section 455(m)(3), which empowers the Secretary to define and regulate the parameters for public service employment under the program. This broad regulatory authority provides the foundation for the proposed rules to refine the criteria governing PSLF eligibility. Specifically, these changes will focus on ensuring that PSLF benefits are directed only to those borrowers who are employed by organizations that serve the public good and uphold public policy, while eliminating the risk of improper payments to those working for organizations engaged in illegal activities. By exercising this authority, the Department aims to protect public funds and guarantee that PSLF benefits fulfill their intended purpose by rewarding individuals dedicated to public service careers.

#### Exclusion of Employers Engaged in Substantial Illegal Activities

One of the most significant challenges faced by the PSLF program has been the inclusion of employers whose activities are at odds with the program’s core mission of supporting public service. To address this, the Department proposes a new regulation to exclude employers that engage in activities with a “substantial illegal purpose” from the list of organizations that qualify for PSLF. This exclusion is necessary to protect taxpayers from funding loan forgiveness for individuals employed by organizations that operate in a manner harmful to the public good.

The proposed rules will specifically identify activities that qualify as having a “substantial illegal purpose,” including violations of Federal and State laws, involvement in trafficking, terrorism, violence aimed at obstructing Federal policy, and other illegal actions. Organizations engaging in such activities will be disqualified from participating in the PSLF program, and their employees will no longer be eligible to receive qualifying payments that lead to loan forgiveness under PSLF.

The inclusion of this provision in the regulations aligns with the Department’s responsibility to administer Federal student aid programs in a manner that is transparent, equitable, and consistent with public policy. By establishing clear criteria for what constitutes a “substantial illegal purpose,” the Department will ensure that PSLF benefits are only granted to those working for employers that genuinely contribute to the public good and comply with the law. The proposed definition of “substantial illegal purpose” will be codified in 34 CFR 685.219(b)(30), providing clarity for both employers and borrowers.

#### Addressing Borrower Eligibility and Ensuring Due Process

In implementing the new regulations, the Department is also mindful of the need to protect borrowers from losing eligibility due to their employer’s actions. Borrowers working for organizations engaged in activities that disqualify them from PSLF will no longer be able to accrue qualifying monthly payments toward loan forgiveness while remaining at that employer. However, the proposed regulations include safeguards to ensure that borrowers are not unfairly penalized. When an employer is found to have engaged in disqualifying activities, borrowers will be promptly notified. This ensures that their employer’s status does not unduly harm borrowers and that they have the opportunity to continue making progress toward loan forgiveness.

To further protect the rights of borrowers, the regulations will provide a process by which employers who are at risk of losing PSLF eligibility due to illegal activities will be notified and allowed to respond. The proposed regulations at 34 CFR 685.219(h) will specify that employers will be afforded a period to respond to the findings before any final determination regarding their eligibility is made. This process aligns with principles of due process and transparency, ensuring that employers have a fair opportunity to

maintain their status and that borrowers are not left uninformed.

#### Reaffirming Transparency and Employer Accountability

Transparency and accountability are central to these proposed regulatory changes. By providing clear guidelines for employers regarding their obligations under PSLF, the Department will help ensure that both employers and borrowers understand the eligibility criteria. Employers found to be engaged in disqualifying activities will be given a reasonable opportunity to contest the findings and take corrective action if necessary. If an employer loses eligibility, the proposed regulations will establish a process for regaining eligibility after 10 years or after the employer has implemented a corrective

action plan. This will be codified in 34 CFR 685.219(j).

The regulations also require that, once an employer regains eligibility, the Secretary shall update the qualifying employer list, which is accessible to borrowers for purposes of certification or application. This helps ensure that borrowers have up-to-date information about which employers are eligible for PSLF, facilitating a more streamlined and transparent process for all stakeholders.

The proposed regulatory changes are designed to protect the integrity of the PSLF program by ensuring that taxpayer funds are used to support borrowers working in public service roles with eligible employers. By excluding employers engaged in illegal activities, defining “substantial illegal purpose,” and providing clear guidelines for

borrower eligibility and employer accountability, the Department aims to create a more efficient, transparent, and fair PSLF program. These reforms will help reduce administrative burdens on borrowers and institutions, promote fairness, and ensure that PSLF benefits are awarded only to those genuinely dedicated to serving the public good. Through these changes, the Department will fulfill its responsibility to safeguard taxpayer funds while enhancing the effectiveness of the PSLF program in supporting individuals committed to public service careers.

#### 2. Summary

The Department proposes to make several significant changes to PSLF based on discussions during the negotiations.

TABLE 2.1—SUMMARY OF KEY CHANGES IN THE PROPOSED REGULATIONS

| Provision                                                                                                     | Regulatory section | Description of proposed provision                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Public Service Loan Forgiveness</b>                                                                        |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Definitions .....                                                                                             | 685.219(b) .....   | Would add definitions of “aiding or abetting”; “chemical castration or mutilation”; “child or children”; “foreign terrorist organizations”; “illegal discrimination”; “other Federal immigration laws”; “substantial illegal purpose”; “surgical castration or mutilation”; “terrorism”; “trafficking”; “violating State law”; and “violence for the purpose of obstructing or influencing Federal Government policy”. Would revise the definition of “qualifying employer”.                                                                                                               |
| Borrower Eligibility .....                                                                                    | 685.219(c) .....   | Would exclude from a credit as a qualifying payment any month that a qualifying employer engaged in activities that have a substantial illegal purpose.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Application Process .....                                                                                     | 685.219(e) .....   | Would create a borrower notification of employers that are at-risk of or have lost PSLF qualifying status.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Borrower reconsideration process .....                                                                        | 685.219(g) .....   | Would prohibit a borrower from requesting reconsideration if their employer lost eligibility due to engaging in activity that has a substantial illegal purpose.                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose. | 685.219(h) .....   | Would create a standard by which the Secretary determines that the qualifying employer engaged in activities that have a substantial illegal purpose, including but not limited to reviewing the preponderance of the evidence and basing decisions on materiality of the activities that have a substantial illegal purpose. Also, would provide the employer an opportunity to respond except in cases where there was conclusive evidence (see discussion or regulatory language for more information) that the employer engaged in activities that have a substantial illegal purpose. |
| Process for determining when an employer engaged in activities that have a substantial illegal purpose.       | 685.219(i) .....   | Would establish that the Secretary determines that a qualifying employer engaged in substantial illegal activities when the Secretary receives that self-certified information on the PSLF form or makes his or her own determination, unless a corrective action plan is submitted prior to issuance of the final determination. We would also note the Secretary’s authority to separate employers operating under on identification number.                                                                                                                                             |
| Regaining eligibility .....                                                                                   | 685.219(j) .....   | Would allow a qualifying employer to regain eligibility after 10 years from the date(s) that it engaged in activity that had a substantial illegal purpose or when the Secretary approves a corrective action plan signed by the employer.                                                                                                                                                                                                                                                                                                                                                 |
| Borrower notification .....                                                                                   | 685.219(k) .....   | Would require the Secretary to update the qualifying employer list, which is accessible to borrowers for purposes of certification or application, if an employer regains eligibility.                                                                                                                                                                                                                                                                                                                                                                                                     |

#### 3. Discussion of Costs and Benefits

The PSLF program is a component of Federal student loan policy, designed to encourage individuals to enter and continue in public service employment by offering cancellation of remaining Direct student loan balances after 120 qualifying monthly payments and 10

years of full-time employment in a public service job. However, over time, the program has faced significant challenges, including confusion about qualifying employers, and the disbursement of benefits to borrowers employed by organizations whose activities do not align with the

program’s public service objectives. To address these issues, the Department has proposed a series of regulatory changes. These proposed regulations aim to enhance the program’s integrity, improve its efficiency, and ensure that taxpayer funds are allocated appropriately. While these changes are

expected to incur certain costs, the long-term benefits are substantial, making the program more effective, transparent, and equitable. Below is an analysis of both the costs and benefits of these proposed regulations.

#### *Costs of the Proposed Regulations:*

The Department acknowledges that implementing the proposed regulations will incur costs. These costs primarily fall into three categories: Department administrative costs, compliance costs for employers, and potential disruptions for borrowers. However, these costs must be viewed in the context of the long-term benefits that the regulations will bring.

One of the immediate costs associated with these regulatory changes will be the need for the Department to update its systems, train staff, and implement new compliance and monitoring processes. The Department will need to track and verify employer eligibility more rigorously, and it will also need to enhance communication systems to notify employers and borrowers of any changes to their status in the PSLF program. These changes will require new investments in staffing, technology upgrades, and outreach programs.

Initial estimates suggest that the administrative costs for the Department will range from \$1.5 million to \$3 million annually during the first two years of implementation. These funds will be used to ensure that the Department can effectively manage the new employer eligibility determination process, update systems, and conduct necessary training for staff and stakeholders. Using information from prior implementation and of income-driven repayment and PSLF program changes, the Department spent an estimated \$2.5 million annually for similar updates. Given the complexity of these new regulations, it is reasonable to expect similar administrative expenditures in the short term.

Employers will need to ensure that they meet the new eligibility criteria under the proposed regulations. This will involve reviewing their activities to ensure they are not engaged in any actions that would disqualify them from participating in the PSLF program. For many employers, especially smaller organizations or those with limited resources, this process may necessitate consultations with legal counsel, operational adjustments, and revisions to their hiring practices.

Compliance costs for employers are expected to vary per organization, depending on the organization's size and complexity. Larger organizations, such as hospitals or universities, may incur higher costs as they assess their practices and make any necessary changes to align with the new rules. A 2021 survey by the National Council of Nonprofits found that a significant percentage of nonprofit organizations may face challenges in meeting changing eligibility standards.<sup>26</sup> These costs primarily result from the costs of legal counsel, restructuring efforts, and changes to the organization's documentation processes. At the same time, many organizations are accustomed to attesting to the fact that they are not violating State and Federal law as a condition to participating in other government or nongovernmental programs. As such, in some circumstances, organizations may not need to exert any more than a *de minimis* amount of additional resources in order make attestations under the proposed regulations. Rather, such organizations will rely on the work already done within the organization that supports their ability to attest they are in compliance with Federal and State law for other purposes.

The most significant impacts on borrowers may stem from: (1) potential delays in loan forgiveness processing during the transition to the new regulations that may stem from changes in employer eligibility databases or open employer eligibility reviews; and (2) potential misunderstandings of the new regulations that lead to borrower confusion that delays application of the forgiveness benefit. Borrowers who are employed by organizations disqualified under the new rules may experience a temporary disruption in their progress toward loan forgiveness. These borrowers will need to transition to qualifying employers to continue receiving credit for their payments. Borrowers who misunderstand the new rules may apply for forgiveness without knowing or understanding the implications of the new rule on their former or current employer as they may no longer be a qualifying employer.

The transition and any misunderstanding of the proposed

changes to the program may slightly increase the time it takes borrowers to achieve forgiveness; however, long-term processing efficiencies are expected to be gained. Borrowers frequently encountered confusion and delays in PSLF application due to employer eligibility issues. A 2018 Government Accountability Office (GAO) audit found that over 370,000 certified borrowers had still made zero qualifying payments, suggesting misunderstandings about eligibility criteria or documentation.<sup>27</sup> A 2020 joint investigation by the American Federation of Teachers (AFT) and the Student Borrower Protection Center (SBPC) revealed that the PSLF process had rejected employer eligibility more than 50,000 times, even inconsistently for employees at the same institution.<sup>28</sup> GAO further warned that the absence of clear guidance for loan servicers significantly increases the risk of improper denials. While the Department is taking steps to minimize these delays and inform borrowers of these changes to standard marketing and communication channels, borrowers may experience disruptions as the new regulatory framework is implemented.

#### *Benefits of the Proposed Regulations:*

Despite the initial costs, the long-term benefits of the proposed regulations far outweigh the short-term expenditures. These benefits are significant and include increased program integrity, improved efficiency, reduced borrower confusion, and long-term savings for taxpayers.

The most significant benefit of the proposed regulations is the improvement in the integrity of the PSLF program. By excluding employers engaged in substantial illegal activities from the program, the Department ensures that taxpayer dollars are only used to support borrowers working for organizations that are not engaged in activities that have a substantial illegal purpose. This change will directly address concerns about improper disbursements and misuse of Federal funds. This change also addresses concerns that the Department is indirectly subsidizing illegal activities that the government broadly aims to prevent.

<sup>26</sup> <https://www.councilofnonprofits.org/reports/nonprofit-workforce-shortages-crisis-affects-everyone>.

<sup>27</sup> <https://www.gao.gov/assets/700/694506.pdf>.

<sup>28</sup> <https://protectborrowers.org/wp-content/uploads/2020/08/ECF-Failures.pdf>.



The proposed regulations will also streamline the PSLF process by providing more explicit eligibility criteria and verification process. This will make it easier for borrowers to track their progress and ensure that they meet the requirements for loan forgiveness. Additionally, employers will benefit from more straightforward guidelines regarding their obligations under the PSLF program.

Recent data from the Consumer Financial Protection Bureau (CFPB) found that a significant fraction of borrowers experienced confusion regarding their employer's eligibility for PSLF.<sup>29</sup> With the new rules in place, the Department anticipates reducing borrower confusion through making the process more transparent and efficient, especially over the long term. This will likely result in faster processing of PSLF applications and fewer errors, as both borrowers and institutions will have a clearer understanding of the program's requirements.

By helping ensure that PSLF benefits are directed only to borrowers working for legitimate public service employers, the proposed regulations will help strengthen public service careers. The PSLF program has been a key factor in attracting and retaining individuals in public service, and these changes will

make the program more accessible and reliable.

There is significant research, both academic and private sector, which documents that public service employees cited PSLF as a significant factor in their decision to pursue and remain in public service. Recently, a 2025 student by Mission Square Research Institute, found that 56% of public sector employees and 62% of private sector employees may job decisions based on their student loan debt levels.<sup>30</sup> As the program becomes more transparent and efficient, the Department anticipates growth in public service recruitment and retention in the future. One of the most important benefits of the proposed regulations will be the long-term savings for taxpayers. By eliminating improper payments, the Department estimates that these regulations will save taxpayers a significant amount of money over the next ten years. These savings will result from a reduction in wasteful disbursements. The expected reduction in improper payments will ensure that taxpayer dollars are spent more efficiently and effectively.

The proposed regulatory changes for the PSLF program aim to enhance the program's efficiency and integrity. Although there will be initial costs associated with administrative updates

and compliance efforts, the long-term benefits far outweigh these expenditures. The regulations will help reduce improper payments, streamline processing times, reduce borrower confusion, and ensure that the program supports individuals employed by organizations that genuinely contribute to the public good. With these changes, the PSLF program will become more transparent, efficient, and practical, fulfilling its original mission of rewarding public service careers while safeguarding taxpayer funds.

#### 4. Net Budget Impact

Table 4.1 provides an estimate of the net Federal budgetary impact of these proposed regulations that are summarized in Table 2.1 of this RIA. This includes both the effects of a modification to existing loan cohorts and costs for loan cohorts from 2026 to 2035. A cohort reflects all loans originated in a given fiscal year. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. The baseline for estimating the cost of these final regulations is the President's Budget for 2026 (PB2026).

TABLE 4.1—ESTIMATED BUDGET IMPACT OF THE NPRM

[\$ in millions]

| Section            | Description                                    | Modification score (1994–2025) | Outyear score (2026–2035) | Total (1994–2035) |
|--------------------|------------------------------------------------|--------------------------------|---------------------------|-------------------|
| § 685.219(h) ..... | Amended definition of qualifying employer .... | – \$640                        | – \$897                   | – \$1,537         |

As noted in the *Need for Regulatory Action* section of this RIA, the proposed regulations define several terms related to qualifying employment for PSLF and amend the definition of a qualified employer to exclude organizations that engage in activities that have a substantial illegal purpose. This is consistent with E.O. 14235, signed March 7, 2025. As proposed in subsection § 685.219(h), the Secretary will determine based on a preponderance of the evidence, and after notice and opportunity to respond, that employers have engaged in activities with a substantial illegal purpose on or after July 1, 2026, by considering the materiality of any illegal

activities or actions. The Department will presume that any of the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

1. A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose;
2. A plea of guilty or *nolo contendere*, whereby the employer admits to have engaged in activities that have substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have substantial illegal purpose; or
3. A settlement that includes admission by the employer that it engaged in activities that have a

substantial illegal purpose described in subsection (h) of this section.

Employer qualification will be linked to the EIN used for reporting to the IRS so employees in one area or agency may be affected by the activities of employees in other organizations under the same EIN. For example, the County of Los Angeles has a single EIN covering various departments including the Los Angeles County Public Defender, Los Angeles County Department of Children and Family Services, Harbor-UCLA Medical Center, and the County of Los Angeles Fire Department. Government agencies in particular may have many service areas under a single EIN.

The PSLF application data includes variables that distinguish non-profit

<sup>29</sup> Consumer Financial Protection Bureau, *Staying on Track While Giving Back: The Cost of Student Loan Servicing Breakdowns for People Serving Their Communities* (Washington, DC: June 2017).

<sup>30</sup> Liu, Z., Korankye, T. (February 2025). *The Ripple Effect of Student Debt: Shaping Careers, Financial Choices, and Well-Being in Public and Private Sectors*. Mission Square Research Institute.



employers and government employers, as well as the level of government employers. Table 4.2 summarizes the split between borrowers receiving PSLF whose greatest time in qualifying employment was with government or non-profit organizations.

TABLE 4.2—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SECTOR

| Employment sector | Number of borrowers who have received forgiveness | Average forgiveness amount |
|-------------------|---------------------------------------------------|----------------------------|
| Government .....  | 677,500                                           | \$ 73,000                  |
| Nonprofit .....   | 296,600                                           | 82,100                     |
| Total .....       | 974,100                                           | 75,800                     |

**Note:** The total number of borrowers who have received forgiveness may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

Table 4.3 splits the government category into Federal, State, and local levels. We assume that Federal agencies will comply with the law. Therefore, we do not expect a reduction in forgiveness for Federal employees.

TABLE 4.3—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY GOVERNMENT SUBSECTOR

| Government subsector     | Number of borrowers who have received forgiveness | Average forgiveness amount |
|--------------------------|---------------------------------------------------|----------------------------|
| Federal Government ..... | 97,800                                            | \$71,900                   |
| Local Government .....   | 415,300                                           | 71,200                     |
| State Government .....   | 161,900                                           | 78,400                     |
| Unknown .....            | 2,500                                             | 75,000                     |
| Total .....              | 677,500                                           | 73,000                     |

**Note:** The total number of borrowers who have received forgiveness may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

Based on the activities identified in the E.O. 14235 it is likely that organizations in some fields are more likely to be affected than others, either by loss of eligibility, the deterrent effect on their activities, difficulty recruiting employees, or by their employees not being granted PSLF forgiveness and seeking alternate employment. Regardless of the type of employer, service areas that could be most affected by the proposed regulation include, but are not limited to, legal services, governance, social work, healthcare, K–12 education, and higher education.

Existing data on employers of borrowers who received forgiveness does not include a service category and names do not always indicate what an organization does, but the Department analyzed this data to estimate what share of borrowers who have achieved forgiveness fall into certain service areas and their average forgiveness.<sup>31</sup> This was done by matching keywords from various subsectors to employer names. For example, for healthcare, the keywords included “hospital”, “health”, “medical”, and “clinic”. A portion of employers cannot be classified because some employer

names give no indication to their service area, contain misspellings, or have names that do not contain any of the keywords matched. These EINs are categorized as “Other”. Approximately 91 percent of borrowers who have received PSLF were categorized into a subsector category, leaving 9 percent in the “Other” category. In this analysis, we assume that the distribution of borrowers and subsectors in the future will reflect that of those who have received forgiveness. Table 4.4 summarizes the results by service area.

TABLE 4.4—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SUBSECTOR

| Employment subsector  | Number of borrowers who have received forgiveness | Average forgiveness amount |
|-----------------------|---------------------------------------------------|----------------------------|
| Agriculture .....     | 3,300                                             | \$ 64,900                  |
| Arts .....            | 2,900                                             | 61,600                     |
| Early Childhood ..... | 1,400                                             | 63,000                     |

<sup>31</sup> Turner, J., Blanchard, K., & Darolia, R. (2025, January). *Where Do Borrowers Who Benefit from Public Service Loan Forgiveness Work?*. NEA. <https://www.nea.org/sites/default/files/2025-03/where-do-borrowers-who-benefit-from-pslf-work.pdf>.

TABLE 4.4—NUMBER OF BORROWERS RECEIVING PSLF AND AVERAGE FORGIVENESS BY EMPLOYMENT SUBSECTOR—Continued

| Employment subsector             | Number of borrowers who have received forgiveness | Average forgiveness amount |
|----------------------------------|---------------------------------------------------|----------------------------|
| Environmental .....              | 2,600                                             | 61,100                     |
| Fire Rescue .....                | 1,200                                             | 52,400                     |
| Governance .....                 | 156,200                                           | 67,200                     |
| Healthcare .....                 | 158,600                                           | 89,200                     |
| Higher Education .....           | 105,400                                           | 84,200                     |
| International .....              | 1,200                                             | 75,500                     |
| K12 Education .....              | 296,600                                           | 72,500                     |
| Law Enforcement .....            | 20,100                                            | 66,500                     |
| Legal .....                      | 13,800                                            | 108,500                    |
| Military .....                   | 48,400                                            | 70,200                     |
| Other .....                      | 82,900                                            | 72,200                     |
| Philanthropy .....               | 5,300                                             | 73,500                     |
| Religious .....                  | 14,000                                            | 69,500                     |
| Research .....                   | 1,500                                             | 65,300                     |
| Social Services .....            | 47,500                                            | 75,300                     |
| Transportation .....             | 5,500                                             | 61,400                     |
| Utilities & Infrastructure ..... | 2,500                                             | 60,700                     |
| Workforce & Labor .....          | 3,000                                             | 80,200                     |
| All Employment Subsectors .....  | 974,100                                           | 75,800                     |

**Note:** The total number of borrowers who have received forgiveness may be less than most recent Department estimates due to timing, data availability, and data cleaning. Borrowers are sorted into the sector with the maximum time working towards forgiveness. The numbers of borrowers and average forgiveness amounts are rounded to the nearest hundred.

As we expect most employers to certify that they do not engage in activities with a substantially illegal purpose, the information in Table 4.4 informed our estimates of potential reductions in qualified employers for PSLF but does not directly translate to the percentage of borrowers assigned to achieve forgiveness in our assumptions for the proposed regulation. We also recognize that employers in other employment subsectors could engage in

activity that results in a loss of eligibility but estimate that these will be anomalies or very small percentages. Therefore, we have included a percentage for all other categories and some sensitivity runs that are described in the *Methodology for Budget Impact* section of this analysis.

Methodology for Budgetary Impact

The Department estimated the budgetary impact of the proposed

provisions in this NPRM through changes to the PSLF assignment within the Department's income-driven repayment (IDR) assumption. PSLF is randomly assigned to borrowers in our IDR model sample based on percentages that vary by the cohort range in which they enter repayment and highest education level as presented in Table 4.5.

TABLE 4.5—CHANGE IN ASSIGNMENT OF PSLF FOR PROPOSED REGULATION

| Percentage of Borrowers Assigned PSLF |        |        |          |
|---------------------------------------|--------|--------|----------|
| Enter repayment cohort range          | 2-year | 4-year | Graduate |
| <b>PB2026 Baseline Scenario</b>       |        |        |          |
| 2016 to 2020 .....                    | 10.46  | 18.05  | 21.96    |
| 2021 and later .....                  | 14.65  | 28.88  | 30.74    |
| <b>Proposed Regulatory Scenario</b>   |        |        |          |
| 2016 to 2020 .....                    | 10.25  | 17.69  | 21.52    |
| 2021 and later .....                  | 14.35  | 28.30  | 30.13    |
| <b>Alternate Regulatory Scenario</b>  |        |        |          |
| 2016 to 2020 .....                    | 9.83   | 16.96  | 20.64    |
| 2021 and later .....                  | 13.77  | 27.14  | 28.90    |

As we expect the proposed regulations to have more of a deterrent effect reducing the likelihood of qualifying employers engaging in illegal

activities and borrowers have the option of shifting employers to complete their 120 months of qualifying payments even if on a delayed basis, we do not expect

a significant reduction in the percentage of borrowers achieving PSLF forgiveness. We have not increased the effect for future cohorts of loans

because, while potential ineligibility starts with the July 1, 2026, effective date, employers’ ability to appeal and get reinstated and employees’ ability to shift positions means the pattern is not necessarily a continued increase in ineligibility.

The changes made in Table 4.5 were derived from applying reductions between 0–5 percent to the employment subsectors identified in Table 4.4 as being most likely to be affected by the proposed regulation (legal, healthcare, social work, higher education, K–12 education, and governance). This results

in an estimated total reduction of approximately 0–2 percent.

As explained in the *Paperwork Reduction Act* section, the Department believes that there would be less than 10 employers affected annually. Given the uncertainties of employer and employee response noted for the primary estimate, we considered an alternative approach that evaluated the maximum impact consistent with the PRA analysis. Within the universe of borrowers who have received forgiveness, approximately 6 percent were employed for their longest time toward forgiveness in the top 10 EINs by forgiven borrower

count, excluding federal employers who are assumed to comply. Therefore, we also ran a high-impact alternative that bumped the reductions up to 6 percent.

The combined effect of the changes to the percentages in Table 4.5 reduces the number of borrowers achieving PSLF in our IDR assumption and results in the cost savings presented in Table 4.6. The Department welcomes comments on the assumptions related to the reduction in future qualified employer eligibility and will consider any substantive comments or information presented in estimating the effects of the proposed rule.

TABLE 4.6—NET BUDGET IMPACT OF PROPOSED CHANGES TO PSLF

| \$ mns                              | PSLF primary | PSLF alternate |
|-------------------------------------|--------------|----------------|
| Modification .....                  | –\$640       | –\$1,765       |
| Outlays for Cohorts 2026–2035 ..... | – 897        | – 2,520        |
| Total .....                         | – 1,537      | – 4,285        |

*Accounting Statement:*  
As required by OMB Circular A–4, we have prepared an accounting statement showing the classification of the expenditures associated with the

provisions of these proposed regulations. Table 4.7 provides our best estimate of the changes in annual monetized transfers that may result from

these proposed regulations. Expenditures are classified as transfers from the Federal government to affected student loan borrowers.

TABLE 4.7—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES  
[In millions]

| Category                                                                                                                                     | Benefits             |                 |
|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------|
| Reduction in taxpayer costs supporting loan forgiveness of those at organizations engaging in activities with a substantial illegal purpose. | Not quantified.      |                 |
| Deterrence of activities with a substantial illegal purpose done by non-profit or governmental organizations.                                | Not quantified.      |                 |
| Category                                                                                                                                     | Costs                |                 |
|                                                                                                                                              | 3%                   | 7%              |
| Costs of compliance with paperwork requirements .....                                                                                        | \$0 .....            | \$0.            |
| Costs incurred by organizations to ensure compliance with proposed regulations.                                                              | Not quantified ..... | Not quantified. |
| Administrative costs to Federal government to update systems and contracts to implement the proposed regulations.                            | \$0.3 .....          | \$0.4.          |
| Category                                                                                                                                     | Transfers            |                 |
|                                                                                                                                              | 3%                   | 7%              |
| Increased transfers from borrowers due to reductions in borrowers achieving PSLF forgiveness:                                                | –\$167 .....         | –\$173.         |

5. Alternatives Considered

The Department considered many alternatives.

Part of the development of these regulations, the Department engaged in a negotiated rulemaking process in which we received comments and proposals from non-Federal negotiators representing numerous impacted constituencies on a variety of issues.

The proposals were submitted from the following constituencies: proprietary institutions of higher education, civil rights organizations, consumer advocates, and legal assistance organizations that represent students and/or borrowers, student loan borrowers in repayment, organizations representing taxpayers and the public interest, public institutions of higher

education, financial aid administrators, accrediting agencies, and State officials, U.S. Military service members. Information about these proposals is available on our rulemaking website at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026>.

The Department worked with the negotiators and continued to provide additional proposed regulatory text for consideration. Despite these efforts, the negotiators did not reach consensus on the proposed regulations in this NPRM, the Department was not bound to incorporating any of the negotiators' submitted proposals in the drafting of this NPRM.

#### Regulatory Flexibility Act

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final regulatory action would not have a significant economic impact on a substantial number of "small entities."

These regulations will not have a significant impact on a substantial number of small entities because they are focused on arrangements between the borrower and the Department. They do not affect institutions of higher education in any way, and these entities are typically the focus of the Regulatory Flexibility Act analysis. As noted in the *Paperwork Reduction Act* section, the burden related to the final regulations will be assessed in a separate information collection process and that burden is expected to involve individuals more than institutions of any size.

#### Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the *Paperwork Reduction Act* of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Section 685.219(i) of these proposed regulatory changes would require an update to the currently approved Public Service Loan Forgiveness Certification and Application, OMB # 1845–0110. The Department would amend the PSLF form to include the ability for a qualifying employer to certify that it has not engaged in activity that has a substantial illegal purpose. We do not believe the proposed changes will significantly change the amount of time currently assessed for the borrower to complete the form. This form update will be completed and made available

for comment through a full public clearance package before being made available for use by the effective date of the regulations. The proposed amendments to the regulation may reduce the number of respondents or responses for individuals submitting Employee Certification forms. This is due in part to the reduction in the number of qualifying employers. As mentioned previously, the Department anticipates a 10 percent reduction in the number of individuals submitting Employee Certification Forms because their employer is no longer eligible for participation. Any burden changes will be assessed to OMB # 1845–0110, Application and Employment Certification for Public Service Loan Forgiveness. Section 685.219 (j) of the proposed regulation would allow an employer to re-establish or maintain eligibility for PSLF if the Secretary approves a corrective action plan. The Department believes that annually there would be less than 10 employers responding to the Department's notice of an initiated action and/or seeking approval of a corrective action plan. No additional burden has been assessed based on these proposed rules as the anticipated number of annual respondents falls below the minimum required for OMB approval.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final regulations we will display the control number numbers assigned by OMB to any information collection requirements proposed in this NPRM and adopted in the final regulations.

If you wish to review and comment on the Information Collection Requests, please follow the instructions in the **ADDRESSES** section of this notification. Note: The Office of Information and Regulatory Affairs in OMB and the Department review all comments posted at [www.regulations.gov](http://www.regulations.gov). We consider your comments on these proposed collections of information in—

\* Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use.

\* Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions.

\* Enhancing the quality, usefulness, and clarity of the information we collect; and

\* Minimizing the burden on those who must respond. Consistent with 5 CFR 1320.8(d), the Department is soliciting comments on the information collection through this document. Between 30 and 60 days after publication of this document in the **Federal Register**, OMB is required to make a decision concerning the collection of information contained in these proposed priorities, requirements, definitions, and selection criteria. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on these Information Collection Requests by September 17, 2025.

#### Intergovernmental Review

This program is subject to E.O. 12372 and the regulations in 34 CFR part 79. One of the objectives of the E.O. is to foster an intergovernmental partnership and strengthened Federalism. The E.O. relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

#### Assessment of Education Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary requests comments on whether these final regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

#### Federalism

E.O. 13132 requires us to provide meaningful and timely input by State and local elected officials in the development of regulatory policies that have Federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed regulations do not have Federalism implications.

**Accessible Format:** On request to the program contact person(s) listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain



this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

#### List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

#### Signing Authority

This document of the U.S. Department of Education was signed on August 14, 2025, by Linda McMahon, Secretary of Education. That document with the original signature and date is maintained by the U.S. Department of Education. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned has been authorized to sign the document in electronic format for publication, as an official document of the U.S. Department of Education. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

#### Tracey St. Pierre,

Director, Office of the Executive Secretariat,  
Office of the Secretary, U.S. Department of  
Education.

For the reasons discussed in the preamble, the Secretary of Education proposes to amend part 685 of title 34 of the Code of Federal Regulations as follows:

### PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 1. The authority citation for part 685 is revised to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087a, *et seq.*, unless otherwise noted.

■ 2. Amend § 685.219 by:

■ a. Adding paragraphs markers to (b);

■ b. Adding new subsections (h), (i), (j) and (k).

■ c. Adding new paragraphs (b)(1), (b)(3), (b)(4), (b)(10), (b)(12), (b)(17), (b)(30), (b)(31), (b)(32), (b)(33), (b)(34), (b)(35), (c)(4), (e)(9), (e)(10), (g)(7); and

■ c. Amending paragraphs b (27), (c)(2), and (g).

■ 2. The revisions and additions read as follows:

#### § 685.219 Public Service Loan Forgiveness Program (PSLF).

(b) \* \* \*

(1) *Aiding or abetting* has the same meaning as defined under 18 U.S.C. 2.

(2) *AmeriCorps service* means service in a position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).

(3) *Chemical castration or mutilation* means—

(i) the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; and

(ii) the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex.

(4) *Child or children* for the sole and specific purpose of this section means an individual or individuals under 19 years of age.

(5) *Civilian service to the military* means providing services to or on behalf of members, veterans, or the families or survivors of deceased members of the U.S. Armed Forces or the National Guard that is provided to a person because of the person's status in one of those groups.

(6) *Early childhood education program* means an early childhood education program as defined in section 103(8) of the Act (20 U.S.C. 1003).

(7) *Eligible Direct Loan* means a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct PLUS Loan, or a Direct Consolidation Loan.

(8) *Emergency management* means services that help remediate, lessen, or eliminate the effects or potential effects of emergencies that threaten human life or health, or real property.

(9) *Employee or employed* means an individual—

(i) To whom an organization issues an IRS Form W-2;

(ii) Who receives an IRS Form W-2 from an organization that has contracted with a qualifying employer to provide payroll or similar services for the qualifying employer, and which provides the Form W-2 under that contract;

(iii) who works as a contracted employee for a qualifying employer in a position or providing services which, under applicable state law, cannot be filled or provided by a direct employee of the qualifying employer.

(10) *Foreign Terrorist Organizations* mean organizations on the list published under paragraph (a)(2)(A)(ii) under the Immigration and Nationality Act (8 U.S.C. 1189).

(11) *Full-time* means:

(i) Working in qualifying employment in one or more jobs—

(A) A minimum average of 30 hours per week during the period being certified.

(B) A minimum of 30 hours per week throughout a contractual or employment period of at least 8 months in a 12-month period, such as elementary and secondary school teachers and professors and instructors, in higher education, in which case the borrower is deemed to have worked full time; or

(C) The equivalent of 30 hours per week as determined by multiplying each credit or contact hour taught per week by at least 3.35 in non-tenure track employment at an institution of higher education.

(12) *Illegal discrimination* means a violation of any Federal discrimination law including, but not limited to, the Civil Rights Act of 1964 (42 U.S.C. 1981 *et seq.*), Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*).

(13) *Law enforcement* means service that is publicly funded and whose principal activities pertain to crime prevention, control or reduction of crime, or the enforcement of criminal law.

(14) *Military service* means “active duty” service or “full-time National Guard duty” as defined in section 101(d)(1) and (d)(5) of title 10 in the United States Code and does not include active duty for training or attendance at a service school.

(15) *Non-governmental public service* means services provided by employees of a non-governmental qualified employer where the employer has devoted a majority of its full-time equivalent employees to working in at

least one of the following areas (as defined in this section): emergency management, civilian service to military personnel, military service, public safety, law enforcement, public interest law services, early childhood education, public service for individuals with disabilities or the elderly, public health, public education, public library services, school library, or other school-based services. Service as a member of the U.S. Congress is not qualifying public service employment for purposes of this section.

(16) *Non-tenure track employment* means work performed by adjunct, contingent or part time faculty, teachers, or lecturers who are paid based on the credit hours they teach at institutions of higher education.

(17) *Other Federal Immigration laws* mean any violation of the Immigration and Nationality Act (8 U.S.C. 1105 *et seq.*) or any other Federal immigration laws.

(18) *Other school-based service* means the provision of services to schools or students in a school or a school-like setting that are not public education services, such as school health services and school nurse services, social work services in schools, and parent counseling and training.

(19) *Peace Corps position* means a full-time assignment under the Peace Corps Act as provided for under 22 U.S.C. 2504.

(20) *Public education service* means the provision of educational enrichment or support to students in a public school or a public school-like setting, including teaching.

(21) *Public health* means those engaged in the following occupations (as those terms are defined by the Bureau of Labor Statistics): physicians, nurse practitioners, nurses in a clinical setting, health care practitioners, health care support, counselors, social workers, and other community and social service specialists.

(22) *Public interest law* means legal services that are funded in whole or in part by a local, State, Federal, or Tribal government.

(23) *Public library service* means the operation of public libraries or services that support their operation.

(24) *Public safety service* means services that seek to prevent the need for emergency management services.

(25) *Public service for individuals with disabilities* means services performed for or to assist individuals with disabilities (as defined in the Americans with Disabilities Act (42 U.S.C. 12102)) that is provided to a person because of the person's status as an individual with a disability.

(26) *Public service for the elderly* means services that are provided to individuals who are aged 62 years or older and that are provided to a person because of the person's status as an individual of that age.

(27) *Qualifying employer* means:

(i)

(A) A United States-based Federal, State, local, or Tribal government organization, agency, or entity, including the U.S. Armed Forces or the National Guard;

(B) A public child or family service agency;

(C) An organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code;

(D) A Tribal college or university; or

(E) A nonprofit organization that—

(1) Provides a non-governmental public service as defined in this section, attested to by the employer on a form approved by the Secretary; and

(2) Is not a business organized for profit, a labor union, or a partisan political organization; and

(ii) Does not include organizations that engage in activities that have a substantial illegal purpose, as defined in this section.

(28) *Qualifying repayment plan* means:

(i) An income-driven repayment plan under § 685.209;

(ii) The 10-year standard repayment plan under § 685.208(b) or the consolidation loan standard repayment plan with a 10-year repayment term under § 685.208(c); or

(iii) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what would have been paid under the 10-year standard repayment plan under § 685.208(b).

(29) *School library services* mean the operations of school libraries or services that support their operation.

(30) *Substantial illegal purpose* means—

(i) aiding or abetting violations of 8 U.S.C. 1325 or other Federal immigration laws;

(ii) supporting terrorism, including by facilitating funding to, or the operations of, cartels designated as Foreign Terrorist Organizations consistent with 8 U.S.C. 1189, or by engaging in violence for the purpose of obstructing or influencing Federal Government policy;

(iii) engaging in the chemical and surgical castration or mutilation of children in violation of Federal or State law;

(iv) engaging in the trafficking of children to states for purposes of

emancipation from their lawful parents in violation of Federal or State law;

(v) engaging in a pattern of aiding and abetting illegal discrimination; or

(vi) engaging in a pattern of violating State laws as defined in paragraph (34) of this subsection.

(31) *Surgical castration or mutilation* means surgical procedures that attempt to transform an individual's physical appearance to align with an identity that differs from his or her sex or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural biological functions.

(32) *Terrorism* is defined under the Crimes and Criminal Procedure (18 U.S.C. 2331).

(33) *Trafficking* means transporting a child or children from their State of legal residence to another State without permission or legal consent from the parent or legal guardian for purposes of emancipation from their lawful parents or legal guardian, in violation of applicable law.

(34) *Violating State law* means a final, non-default judgment by a State court of:

(i) trespassing;

(ii) disorderly conduct;

(iii) public nuisance;

(iv) vandalism; or

(v) obstruction of highways.

(35) *Violence for the purpose of obstructing or influencing Federal Government policy* means violating any part of 18 U.S.C. 1501 *et seq.* by committing a crime of violence as defined under 18 U.S.C. 16.

(c) *Borrower eligibility.*

(2) Except as provided in paragraph (c)(4) of this section, a borrower will be considered to have made monthly payments under paragraph (c)(1)(iii) of this section by—

(4) Effective on or after July 1, 2026, through a standard as described in subsection (h) of this section, no payment shall be credited as a qualifying payment for any month subsequent to a determination that a qualifying employer engaged in activities that have a substantial illegal purpose, as described in this section.

(e) *Application process.*

(9) If the Secretary has notified the borrower's employer that the employer may no longer satisfy the definition of qualifying employer set forth in subsection (b)(28) of this section, pending a determination made under subsection (h) of this section, the

Secretary notifies the borrower of the potential change in the employer's status.

(10) If the Secretary has determined the borrower's employer has ceased to be qualifying employer as a result of a determination made under subsection (h) of this section, the Secretary notifies the borrower of the change in the employer's status.

\* \* \* \* \*

(g) *Borrower reconsideration process.*

\* \* \* \* \*

(7) Notwithstanding paragraph (g)(1) of this section, a borrower may not request reconsideration under this subsection (g) based on the Secretary's determination that the organization lost its status as a qualifying employer due to engaging in activities that have a substantial illegal purpose under the standard described in subsection (h) of this section.

(h) *Standard for determining a qualifying employer engaged in activities that have a substantial illegal purpose.*

(1) The Secretary determines by a preponderance of the evidence, and after notice and opportunity to respond, that a qualifying employer has engaged on or after July 1, 2026, in activities that have a substantial illegal purpose by considering the materiality of any illegal activities or actions. In making such a determination, the Secretary shall presume that any of the following is conclusive evidence that the employer engaged in activities that have a substantial illegal purpose:

(i) A final judgment by a State or Federal court, whereby the employer is found to have engaged in activities that have a substantial illegal purpose;

(ii) A plea of guilty or *nolo contendere*, whereby the employer admits to have engaged in activities that

have substantial illegal purpose or pleads *nolo contendere* to allegations that the employer engaged in activities that have substantial illegal purpose; or

(iii) A settlement that includes admission by the employer that it engaged in activities that have a substantial illegal purpose described in subsection (h) of this section.

(2) Nothing in this subsection shall be construed to authorize the Secretary to determine an employer has a substantial illegal purpose based upon the employer or its employees exercising their First Amendment protected rights, or any other rights protected under the Constitution.

(i) *Process for determining when an employer engaged in activities that have a substantial illegal purpose.*

(1) The Secretary will determine that a qualifying employer violated the standard under subsection (h) of this section when the Secretary:

(i) Receives an application as referenced under subsection (e) of this section in which the employer fails to certify that it did not participate in activities that have a substantial illegal purpose; or

(ii) Determines that the qualifying employer engaged in activities that have a substantial illegal purpose under subsection (h) of this section, unless, prior to the issuance of the Secretary's final determination, the Secretary which includes the factors set forth in subsection (j)(2) of this section.

(2) Notwithstanding subsection (i)(1), the Secretary shall, in the event an employer is operating under a shared identification number or other unique identifier, consider the organization to be separate if the employer is operating separately and distinctly, for the purposes of determining whether an employer is eligible.

(j) *Regaining eligibility as a qualifying employer.* An organization that loses eligibility for failure to meet the conditions of paragraph (b)(27) of this section may regain eligibility to become a qualifying employer after—

(1) 10 years from the date the Secretary determines the organization engaged in activities that have a substantial illegal purpose in accordance with subsection (h) of this section, if, at or after that time, the organization certifies on a borrower's subsequent application that the organization is no longer engaged in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section; or

(2) The Secretary approves a corrective action plan signed by the employer that includes—

(i) a certification by the employer that it is no longer engaging in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section;

(ii) a report describing the employer's compliance controls that are designed to ensure that the employer does not continue to engage in activities that have a substantial illegal purpose as defined in paragraph (b)(30) of this section in the future; and

(iii) any other terms or conditions imposed by the Secretary designed to ensure that employers do not engage in actions or activities that have a substantial illegal purpose.

(k) *Borrower notification of regained eligibility.* If an employer regains eligibility under subsection (j) of this section, the Secretary shall update the qualifying employer list, which is accessible to borrowers for purposes of certification or application.

[FR Doc. 2025–15665 Filed 8–15–25; 8:45 am]

BILLING CODE 4000–01–P



U.S. Department of Education

---

[HOME](#) / [ABOUT US](#) / [NEWSROOM](#) / [PRESS RELEASES](#)

## PRESS RELEASE

## U.S. Department of Education Issues Proposed Public Service Program Rules to Protect American Taxpayers

\*\*\*\*\*  
AUGUST 18, 2025  
\*\*\*\*\*

The U.S. Department of Education today issued a Notice of Proposed Rulemaking (NPRM) that would prevent benefits under the taxpayer-funded Public Service Loan Forgiveness (PSLF) program from being improperly provided to borrowers whose employers are engaged in activities with a substantial illegal purpose.

The proposed rules would halt PSLF benefits to employees of organizations that are undermining national security and American values through illegal means, and therefore not providing a public service. Organizations that engage in activities that have a “substantial illegal purpose,” such as supporting terrorism, aiding or abetting discrimination or violations of immigration laws, or child abuse, would be excluded as qualifying PSLF employers under the proposed changes.

“President Trump has given the Department a historic mandate to restore the Public Service Loan Forgiveness program to its original purpose—supporting public servants who strengthen their communities and serve the public good, not benefiting businesses engaged in illegal activity that harm Americans,” **said Under Secretary of Education Nicholas Kent.** “The federal government has a vital interest in deterring unlawful conduct, and we’re moving quickly to ensure employers don’t benefit while breaking the law.”

Following President Trump’s [Restoring Public Service Loan Forgiveness](#) Executive Order in March, the Department gathered public feedback at two public hearings

in May and convened a negotiated rulemaking committee of borrowers and other higher education stakeholders last month to review draft regulations. The Department drafted the NPRM based on that feedback and extensive discussions with stakeholders.

To see the full NPRM, click [here](#).

## **Comment Period**

Comments on the proposed rules can be submitted through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. The Department must receive comments on or before September 17, 2025.

## **Background:**

Section 492 of the Higher Education Act requires that the Secretary of Education solicit public involvement in the development of proposed regulations before publishing a Notice of Proposed Rulemaking implementing programs authorized under Title IV. After obtaining advice and recommendations from the public and stakeholders, the Secretary conducts Negotiated Rulemaking to develop the proposed regulations.

On March 7, President Trump signed the *Restoring Public Service Loan Forgiveness* Executive Order, directing the Secretary to propose revisions to the PSLF program and to ensure the definition of “public service” excludes organizations that engage in activities that have a substantial illegal purpose.

On May 12, the Department announced its intention to establish a committee to prepare proposed regulations to implement changes to the PSLF program.

On July 2, the Department concluded the negotiated rulemaking session after three days of negotiations, with an overwhelming majority of the committee voting in support refining the qualifying employer definition for PSLF. Only one

committee member objected, preventing the committee from reaching consensus.

For more information on the negotiated rulemaking process, see [here](#).

**CONTACT**

Press Office | (202) 401-1576 | [press@ed.gov](mailto:press@ed.gov)

**Office of Communications and Outreach (OCO)**

Page Last Reviewed: August 18, 2025

**Pay for College**

Fill out the FAFSA

529 Plans

Repay Your Loans

1098 Tax Forms

**Educational Resources**

504 Plans

FERPA

IEPs (Individualized Education Program)

**Teaching Resources**

Education Research

Professional Resources

# Additional Resources

## Nonprofit Resilience

- <https://charityandsecurity.org/know-your-rights/steps-you-can-take-to-protect-yourself/>
- <https://charityandsecurity.org/protecting-nonprofits/civil-society-resilience-resources/>
- <https://engage.buildingmovement.org/hubfs/FAQ%20Nonprofits%20in%20the%20New%20Landscape.pdf>
- <https://nonprofitfinancials.org/resources/financial-risk-assessment-a-3-level-model-for-nonprofits-in-2025/>

## Navigation of Funding/Legal Challenges

- <https://publiccounsel.org/services/nonprofits/>
- <https://www.lawhelp.org/dc/npsb>
- <https://www.lawyersforgoodgovernment.org/fund-protection-clinic>
- <https://publiccounsel.org/resources/?search=&issue=nonprofits&type=&audience=&per-page=25>
- <https://protectdemocracy.org/work/nonprofit-toolkit-responding-to-government-investigations/>

## Executive Orders and Tax Exemption

- <https://minnesotanonprofits.org/executive-order-specific-resources>
- <https://www.councilofnonprofits.org/impacts-recent-executive-orders-nonprofits>

## Insurance Considerations

- <https://www.nylpi.org/resource/understanding-directors-and-officers-liability-insurance-for-nonprofit-organizations/>

## Protestor Rights

- <https://www.aclu.org/know-your-rights/protesters-rights>

## Data Privacy/Protection

- [https://www.nylpi.org/resource/new-guide-data-protection-best-practices-for-nonprofits/?link\\_id=1&can\\_id=1fd4cee2274f32695367146f824aa9d5&source=email-join-our-415-](https://www.nylpi.org/resource/new-guide-data-protection-best-practices-for-nonprofits/?link_id=1&can_id=1fd4cee2274f32695367146f824aa9d5&source=email-join-our-415-)

[webinar-new-legal-alert-for-nonprofits-6&email\\_referrer=&email\\_subject=join-our-522-webinar-new-data-protection-guide](#)

- <https://www.councilofnonprofits.org/articles/earning-trust-imperative-data-privacy-nonprofits>
- <https://www.eff.org/pages/online-privacy-nonprofits>

### **Response to Equal Employment Opportunity Commission (EEOC) Guidance**

- <https://www.chaifeldblum.com/wp-content/uploads/2025/04/Statement-of-Former-EEOC-Officials-on-DEI-04.03.25-1.pdf>

### **DEI Litigation Tracker and Talking Points**

- <https://advancingdei.meltzercenter.org/>
- <https://docs.google.com/document/d/1Is0RbU0VWrBv7JKPERM4GwXOe5UvYxl9dVb3NNN3hRI/edit?tab=t.0>

### **Pro-Democracy Response Center**

- <https://www.democracy2025.org/response-center>

### **Emergency Preparedness**

- <https://www.ready.gov/business/toolkits>
- <https://www.ready.gov/business/emergency-plans/emergency-response-plan>
- <https://www.ready.gov/business/emergency-plans/crisis-communications-plans>

# Webinar Recordings

- [The New McCarthyism, Preemptive Obedience and the Threat to Nonprofits | CalNonprofits](#)
- [Protecting Nonprofits in a Time of Pressure | Raben](#)
- [Dynamics and Trends in the Nonprofit Economy | Nonprofit GPS](#)
- [The Big, Ugly Bill: What H.R. 1 Means for Nonprofits | CalNonprofits](#)
- [Planning and Budgeting for Uncertain Times | Nonprofit GPS](#)
- [How to Build and Monitor a Liquidity Plan When Cash Is Scarce | Nonprofit GPS](#)
- [How to Create and Make the Most of Inter-organizational Arrangements | Nonprofit GPS](#)
- [What Comes Next? Mergers, Acquisitions, and Nonprofit Sustainability | Raben](#)
- [Deciding When to Engage: Leading Through Policy and Political Change | Raben](#)

