

Building an Administrative Record and Defending Your Federal Funding

Update as of April 9, 2025



**LAWYERS FOR
GOOD
GOVERNMENT**



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Agenda

Presenters



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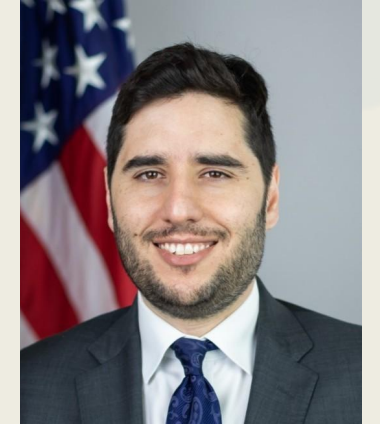
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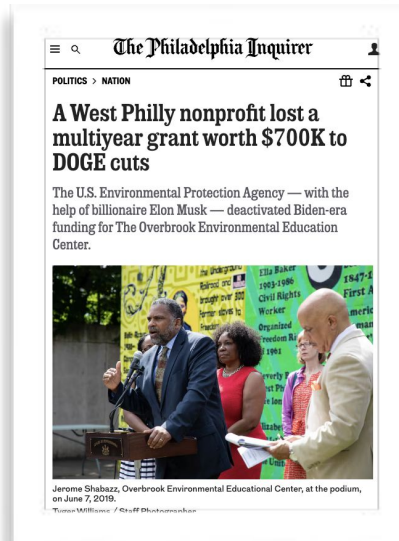
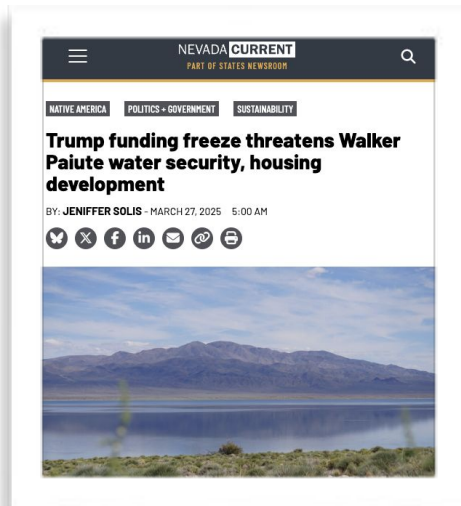
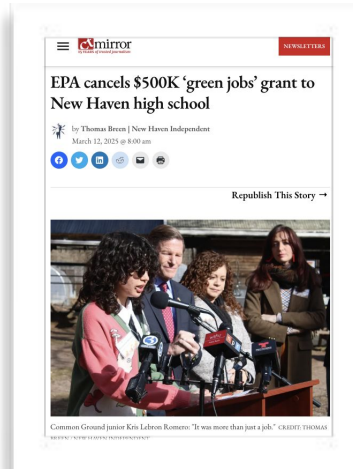
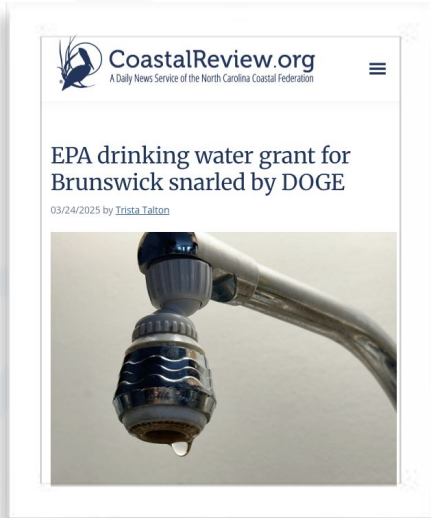
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Grantees Are Telling Their Stories. Join them!



- Contact your local media using [media talking points](#) and [interview strategies](#)
- Contact [EPN](#) if you are willing to speak with the reporters. We can help pitch your story and connect you with dedicated comms support
- [Post on social media](#) and ask your allies to amplify your message
- Coordinate public statements with your allies via joint letters, press releases, and media engagements
- Write an op-ed or article – thought pieces highlight the importance of your grant to shape public opinion and put pressure on decision-makers

Earth Day is April 22. Plan an event!

This is a prime opportunity to drive your public message & engage elected officials

- Representatives are working in their district April 11-25
- Senators are working in their state April 22-26

What Can You Do?

- 1) If you have a supportive elected official,** contact them now. Offer to host an Earth Day event on or around 4/22
- 2) If you do not have a supportive elected official:**
 - a) Request a meeting and/or invite them for a closed press (i.e., no press) site visit
 - b) Do your own event with allies

Send [letters](#) to your elected officials (if you haven't already) & follow up by sending **news articles** after they publish

Contact [EPN](#) if you need advice or support.

EARTH DAY

April 22



**HANDS OFF
EPA PROGRAMS**

This Presentation Is Not Legal Advice

Today's discussion provides a high-level overview only and should not be considered direct legal advice. Please consult your in-house attorney and your finance officer about your specific matter.

Legal Disclaimer: The information provided in this presentation does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available from this presentation and associated materials are for general informational purposes only. Information contained in any associated materials or website may not constitute the most up-to-date legal or other information.

Legal Landscape

- Several lawsuits, more coming:
 - *22 State Attorneys (+ DC) General v. Trump* re: General Fed Funding Freeze
 - Federal court [Preliminary Injunction](#) - **must unpause IRA and IIJA Funding - in 22 States + DC**
 - *National Association of Diversity Officers in Higher Education v. Trump*
 - [Preliminary Injunction](#) - Cannot terminate, certify, or prosecute based on DEI - All Agencies
 - **PI has been stayed by appeals court - not good for now, but may change quickly**
 - [*Butterbee Farms et al. v. US Department of Agriculture et al.*](#)
 - PI has been **requested** to unfreeze funding for several USDA grants - no ruling yet
 - [*The Sustainability Institute et al. v. Trump et al.*](#)
 - PI has been **requested** to unfreeze funding for several EPA, DOE, DOT, and USDA grants- no ruling yet; L4GG/EPN Amicus filed
 - Supreme Court Ruling - Department of Education case stings: not great, but distinct facts
 - Likely to be more lawsuits coming soon focused on illegal terminations & freezes

What is an Administrative Record?

- Historical record of events primarily focused on demonstrating harms to grantees or obstacles to compliance in their grant funded projects.
- Secondarily, it can document ways in which grantees are staying compliant.
- It can also document all of the communications back and forth between the agency that show:
 - your efforts to comply
 - agency's arbitrary actions

Best Practices

- As a grantee, what resources have been available?
- Document ways in which you have sought and received guidance.
 - Communication and guidance from EPA
 - Understanding pre-award and post-award process
 - Templates and how to adapt them to your project
 - Review/approval of required deliverables – workplan, budget, Form 6600-01, QMP, QAPP
 - Guidance to stay in compliance

Things to Consider Documenting

- How have freezes impacted your organization?
- What actions have you taken to address these issues?
 - ASAP pause/freeze
 - Lack of EPA PO/GS/RQAM communication
 - Lack or delays in EPA feedback/approval
 - Stop work order
 - Contract termination
 - Amendments
- Document all efforts to communicate with PO and higher-ups; print or take screenshots of frozen accounts and communications from agency

Areas of Concern

- At risk of missing milestones?
 - Behind on reallocation/amendment
 - Behind on schedule – work delayed
 - Federal procurement compliance
 - BABA compliance
 - DBRA compliance
 - QMP/QAPP compliance
 - ASAP drawdown issue
- How have you tried to address these?
- Document all efforts to address the issues above

Why Is The Admin Record So Important?

- Most administrative agency cases are won and lost on the administrative record
- You have a good story to tell, but it only counts as evidence if it's written down
 - The content of verbal/phone conversations are difficult to prove
 - If your PO tells you something over the phone, memorialize the conversation in writing
 - Your success in future litigation and administrative disputes might depend on the robustness of your administrative record
 - Elected officials will be better able to react and respond to written evidence
 - Media sources will be better able to corroborate your story with written evidence

Administrative Record to Support Litigation

- If you are in any of these situations:
 - Fill out [L4GG's Clinic Intake Form](#) if you haven't yet
 - Email updates to FPC@L4GG.org if you have already submitted the Intake Form
- Use [L4GG's FPC Email Template Guide](#) for:
 - ASAP freeze
 - Missed milestones
 - Termination
 - Demand letter (EPA)
 - DEI Considerations – [DEI Guidance Brief](#)

Administrative Record to Support Litigation

- Building an Administrative Record provides evidence of organizational harms and federal compliance to dispute contract termination or enter into litigation for ASAP freezes or terminations
- L4GG monitors ongoing litigation by organizations like Southern Environmental Law Center (SELC), Earthjustice, Democracy Forward, and National Resources Defense Council (NRDC) to free up frozen or terminated funding
 - Ex. SELC – [federal freezes](#) on EPA, USDA, DOT, and DOE grants

Administrative Record to Support Communications Strategies

- Tell your story:
 - [Post on social media](#) and ask your allies to amplify your message
 - Contact local media to share your story
 - [Media talking points](#) and [interview strategies](#)
 - Coordinate public statements with your allies via joint letters, press releases, and media engagements
 - Write an op-ed or article – thought pieces to highlight importance of your grant to shape public opinion and put pressure on decision-makers
 - Reach out to [EPN](#) if you want assistance on reaching local media

Administrative Record – How Do I Make It?

- Create a Chronology
- Consider what factual story you need to tell
 - Harassed? No response? Your ongoing efforts to comply? Harmed?
- Do you have documentation to establish that story?
- Examples:
 - Can't get into ASAP? – take a screenshot
 - Had a good verbal discussion with PO?
 - Send a follow up email documenting it all
 - Received a request to certify? – print the document
 - Random announcement re Terms and Conditions – print it out
 - Create folders of:
 - Communications with Agencies
 - Compliance Actions
 - Efforts to reach PO

“Papering the Record” – Pro Tips

- Be cautious internally, chatty with the agency.
 - Be strategic about internal communications;
 - Avoid comments that could be held against you.
 - Check in with your agency contacts regularly.
 - Confirm that you are performing as expected and there are no problems.
 - If the government takes adverse action, seek clarification and explanations.
 - Ask even if you do not expect a response.
 - Get what candid responses you can from career government officials
 - Send internal memos to file following any conversations with the government.
 - Save and organize all documentation, all calls, etc.
- Bottom line: be strategic about the communications you are creating and those that you are not.

Resources

- For compliance questions: epa-support@trccompanies.com
- For legal questions re freezes, terminations, compliance, investigations:
 - If you have not already applied: [L4GG's Clinic Intake Form](#)
 - If you have already applied & have questions: FPC@L4GG.org
 - 1:1 Pro Bono assistance for USDA, EPA, and DOE grantees
- For communications questions: zealan@impactstrategy.us

Resources (Cont'd)

L4GG:

- [DEI Guidance Brief](#)
- [FPC Email Template Guide](#)
- [Fund Protection Clinic Intake Form](#) for new requests
- FPC@L4GG.org for questions/existing requests
- [Subscribe](#) for federal grantee legal updates

EPN:

- [Sample letter to elected officials](#)
- [Media interview strategies](#)
- [Social media best practices and sample post](#)
- [Technical assistance](#) and [media assistance](#)
- [Monthly webinars](#)



Q & A

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Breakout Rooms