

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CRISTOSAL HUMAN RIGHTS,
11 Bulevar Sur, Colonia Utila, Santa Tecla, El
Salvador;

CORPOCAMINOS,
19 Barrio Centro, Municipio de Timbío,
Departamento del Cauca, Colombia;

ACCIÓN CULTURAL POPULAR
HONDUREÑA,
Barrio San José, 8va calle SE, 6ta y 7ta
avenida, Morazán, Yoro, Honduras;

ASOCIACIÓN LAS PREGONERAS;
Calle Canto Rey, Mz. E Lote, 18 primera
etapa, Río Tambo, San Juan de Lurigancho,
Lima, Peru;

ALTERNATIVAS Y CAPACIDADES,
Málaga 88, Insurgentes Mixcoac, Benito
Juárez, 03920 México City, México;

FUNDACIÓN RENACE,
Av.20 de octubre 1915, La Paz, Bolivia;

SOCIEDAD COOPERATIVA DE LAS
MUJERES RURALES DE LA FRONTERA
SUR,
Carretera Tenosique a La Palma Km 27, ejido
San Isidro Guasiván, Tenosique, Tabasco,
México;

FUNDACIÓN ESCUELA DE
INTEGRACIÓN, FORMACIÓN
DEPORTIVA, EXPRESIÓN ARTÍSTICA
Y DESARROLLO LABORAL,
Urbanización San Pedro Magisterio. Km 3,
carretera a Sacaba, Calle Concordia s/n
esquina Nicaragua, Sacaba, Bolivia;

ASOCIACIÓN INSTITUTO
SALVADOREÑO DE EDUCACIÓN
COOPERATIVA Y AGRICULTURA

Case No.: _____

COMPLAINT

ORGÁNICA, Calle y Colonia La Mascota
No. 156, San Salvador, El Salvador,

Plaintiffs,

v.

PETER MAROCCO, in his official capacity
as Acting Deputy Administrator for Policy
and Planning and for Management and
Resources for USAID and Director of
Foreign Assistance at the Department of
State, and in his purported official capacity as
Chairman of the Board of the Inter-American
Foundation,
1300 Pennsylvania Avenue NW
Washington, DC 20004;

DOMINIC BUMBACA, in his purported
official capacity as the President of the Inter-
American Foundation,
1331 Pennsylvania Ave. NW, Suite 1200
Washington, D.C. 20004;

SERGIO GOR, in his official capacity as
Director of the White House Presidential
Personnel Office,
1600 Pennsylvania Avenue NW
Washington, DC 20500;

U.S. DOGE SERVICE,
736 Jackson Place, NW
Washington, DC 20503;

U.S. DOGE SERVICE TEMPORARY
ORGANIZATION,
736 Jackson Place, NW
Washington, DC 20503;

AMY GLEASON, in her official capacity as
Acting Administrator of U.S. DOGE Service,
1600 Pennsylvania Avenue NW
Washington, DC 20500;

DONALD J. TRUMP, in his official capacity
as President of the United States,
1600 Pennsylvania Avenue, NW
Washington DC 20500;

U.S. DEPARTMENT OF THE
TREASURY,
1500 Pennsylvania Avenue, NW
Washington DC 20220;

and SCOTT BESSANT, in his official
capacity as Secretary of the Treasury,
1500 Pennsylvania Avenue, NW
Washington DC 20220,

Defendants.

1. This lawsuit challenges a series of unlawful and unconstitutional actions taken to eviscerate an entire independent agency, the Inter-American Foundation, despite Congress’s clear direction that “[t]he Foundation . . . shall have perpetual succession unless sooner dissolved by an Act of Congress,” 22 U.S.C. § 290f(e)(1), and in disregard of Congress’s choice to appropriate funding “to carry out the functions of” the Foundation “until September 30, 2025,” Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, Div. F, tit. III, 138 Stat. 460, 746 (2024); Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025).

2. The Foundation is a nimble and transformative federal agency that since 1969 has focused on community-driven development across Latin America and the Caribbean. Unlike other foreign-aid agencies, which largely rely on government-to-government funding mechanisms or international contractors, the Foundation pioneered a different model: community-led development through engagement with local leaders, civil society organizations, and entrepreneurs working to make their own communities more prosperous, peaceful, and democratic. The Foundation has invested in nearly 6,000 community development projects in 35 countries, focused on addressing the root causes of migration by promoting economic stability, reducing violence, and strengthening democratic

governance. These projects work to build peaceful and safe communities, expand economic opportunities through job creation and entrepreneurship, strengthen civic engagement, and enhance social and economic inclusion. The Foundation also works to support food security and other initiatives that promote long-term stability. By empowering local communities to solve their own problems, the Foundation's work has been one of the United States' most effective and powerful tools to strengthen and build local communities in developing nations throughout the Western Hemisphere—a key effort to address the root causes of mass migration.

3. A Brookings Institution review notes that the Foundation “has safely and successfully invested hundreds of millions of U.S. taxpayer dollars in local [nongovernmental organizations] since 1969,” and it “has a library of ex-post evaluations proving the lasting impact of its investments,” which “are structured so they nearly always reflect local priorities and build from on-going locally rooted efforts.”¹ The Foundation's success at combatting violence, creating economic opportunities, and reducing migration have earned it longstanding, broad bipartisan support. Congress has maintained and, over time, increased the Foundation's funding regardless which political party controls each of its chambers.

4. Notwithstanding these laudable achievements, the Trump Administration—which purports to be laser-focused on reducing migration across the southern border—has moved swiftly to dismantle the Foundation. First, President Trump issued an executive order declaring the Foundation “unnecessary” and ordering it to “reduce the performance of [its] statutory functions and associated personnel to the minimum presence and function required by law.” Next, Defendants launched a full-scale hostile takeover of the agency, usurping the power of its bipartisan, presidentially appointed and Senate-confirmed Board of Directors; purporting to fire its president and chief

¹ George Ingram, Brookings Inst., *Locally Driven Development: Overcoming the Obstacles* 34 (2022), <https://www.brookings.edu/wp-content/uploads/2022/05/Locally-Driven-Development.pdf>.

executive officer; shuttering its website; cancelling its contracts and grants; placing all of its employees on administrative leave and slating them for termination within 30 days; and purporting to install Defendant Peter Marocco as the Acting Chair of the Foundation's Board of Directors and President. These actions have caused chaos for the Foundation's employees, contractors, and grantees who depend on a reliable flow of funding from the Foundation.

5. Defendants lack any lawful authority to abolish by executive fiat an agency created by Congress. Defendants likewise lack authority to impound funds Congress appropriated and directed the Foundation spend to carry out its mission. Defendants' actions flout the separation of powers and violate numerous provisions of the U.S. Constitution, including the Appropriations Clause, the Spending Clause, the Presentment Clause, and the Take Care Clause. The purported appointment of Marocco as Acting Chair of the Board also violates the Federal Vacancies Reform Act of 1998, or, in the alternative, the Appointments Clause. And Defendants' decisions constitute arbitrary and capricious agency action, and agency action unlawfully withheld, in violation of the Administrative Procedure Act. Defendants' unlawful and unconstitutional actions pose a grave threat to Plaintiffs—grantees who depend on the Foundation's funding to conduct important community-led development work in numerous nations—and to the community members that rely on Plaintiffs' projects. Absent prompt intervention from this Court halting Defendants' continuing disregard for the rule of law, Plaintiffs and their local constituents will continue to suffer ongoing, irreparable harm.

JURISDICTION AND VENUE

6. The Court has jurisdiction under the United States Constitution and 28 U.S.C. §§ 1331 and 1346.

7. Venue is proper in this district under 28 U.S.C. § 1391(e) because all Defendants reside in this district and a substantial part of the events or omissions giving rise to this action occurred in this district.

PARTIES

8. Plaintiff Cristosal Human Rights is a human rights organization that operates in El Salvador, Guatemala, and Honduras, and is associated with the Episcopal Church. Cristosal's primary mission is to address internal displacement driven by criminal gangs, threats, extortions, and assassinations. Cristosal works to counteract these forces through a variety of means, such as providing victims of human rights violations with legal and mental health services and emergency shelter, food, and financial assistance. It also trains individuals and local leaders on how to advocate for policies and laws that protect their rights and prevent future displacement. Cristosal has worked closely with the Foundation since 2020. The initial term of its grant agreement provided Cristosal with \$290,000 over two years. Cristosal and the Foundation subsequently agreed to several amendments, increasing the total grant amount to \$540,000 and extending the grant period through September 18, 2025.

9. Plaintiff Corpocaminos is the first community-led technical college in southwest Colombia. Colombia's Ministry of Education accredited it in 2019. Corpocaminos's mission is to expand access to higher education in the region, especially for young people and the rural poor. It provides comprehensive technical and professional training in fields such as agriculture and tourism to populations that would otherwise have few economic options available. Corpocaminos first began working with the Foundation in 2020, with which agreed to provide a total of \$544,012 to Corpocaminos between 2020 and 2026.

10. Plaintiff Acción Cultural Popular Hondureña (ACPH) is a Honduran non-governmental organization dedicated to improving living conditions in that country. It invests in community-health initiatives, finds job opportunities for women and youth, and responds to natural disasters. It began working with the Foundation in 2020 on two projects set to run through 2026. The first provides technical training to unemployed youth. Under that program, students receive 500 hours of training over a six-month period. ACPH then helps them obtain internships with local companies.

The program has trained nearly 500 young people and over 100 adults. The Foundation committed \$564,000 to this program. The second program focuses on helping hurricane and flood victims who live near the Ulúa and Chamelecón rivers. Under this program, ACPH distributes emergency supplies in the immediate aftermath of these natural disasters, and mental-health and other services over the longer term. This program has benefitted 20 communities and led to the establishment of five collection centers outfitted with rescue boats and emergency materials. It has directly benefited 400 people and indirectly benefitted another 30,000. The Foundation committed \$255,000 to this project.

11. Plaintiff Asociación Las Pregoneras is a Peruvian organization dedicated to supporting victims of domestic violence and violence in schools. It does so by collaborating with local governments and police on violence prevention campaigns. It also provides mental-healthcare services to women and children victims of domestic violence. Among other things, Pregoneras goes door-to-door with community leaders and the Peruvian National Police to offer families guidance on how to report acts of domestic violence. It also works with students, parents, and teachers to address physical, psychological, and sexual violence in secondary schools. Pregoneras began working with the Foundation in 2023, receiving a \$125,000 grant that ran through January 2025. Those funds have been used to educate 200 parents and teachers on how to identify and prevent violence in public schools. They have also been used to provide almost 200 young people, including victims of domestic violence, with problem-solving and conflict management skills and mental health services. Pregoneras's work has resulted in a 13-percent decrease in incidents of school violence. Students who took advantage of its mental-health services saw their grades improve, and they were less likely to drop out of school.

12. Plaintiff Alternativas y Capacidades is an organization dedicated to strengthening civil society in Mexico. It has worked with the Foundation since 2023, receiving a \$363,290 grant to be spent from April 2023 and April 2026. The grant has funded Alternativas's Social Laboratory for Youth-led Initiatives ("Social Lab") program, based in the Yucatán Peninsula. Youth migration from

the Yucatán is especially high, as there are few economic opportunities. For many young people—especially young men—migration is seen as the only pathway to financial stability. The Social Lab program responds to these challenges by providing training in civic engagement, which in turn helps participants invest in their communities. Forty young people have already completed the Social Lab program, and another 40 are currently enrolled. Through the Social Lab program, Alternativas also recently awarded 10 seed grants of \$2,500 each to young people to let them start their own community-involvement projects, and was planning to award an additional 10 seed grants in the near future.

13. Plaintiff Fundación Renace is a Bolivian organization dedicated to promoting local farming by providing technical assistance to local communities. It works to improve production and marketing of local products and services. Among other things, Fundación Renace has used Foundation funds to train local business owners on business management techniques and production processes; how to obtain necessary legal documentation for businesses to compete in the marketplace; how to market their products; and how to bid on government contracts. The Foundation committed \$572,630 to Fundación Renace to be disbursed between September 9, 2017, and September 9, 2025.

14. Plaintiff Sociedad Cooperativa de las Mujeres Rurales de la Frontera Sur is a savings and loan cooperative that works to improve access to credit for rural women in southern Mexico. It received a \$237,780 grant that began in 2024 and was set to run through 2027. Among other things, it has used those funds to strengthen and expand the reach of its savings-and-loan programs and to increase the financial literacy of women in the community.

15. Plaintiff Fundación Escuela de Integración, Formación Deportiva, Expresión Artística y Desarrollo Laboral (EIFODEC) is a private, non-profit school located in Bolivia. Its mission is to improve the quality of life of children and young adults with disabilities. It has worked with the Foundation since 2023, receiving a \$265,000 grant. Those funds have been used for EIFODEC's Building an Inclusive World Project, allowing 120 children and youth with disabilities to attend

EIFODEC and learn daily life skills. Thirty-three of them have received occupational training, and under the program 23 were scheduled to receive seed capital for their own economic enterprises. EIFODEC has also supported 246 families of people with disabilities, training them on how to care for, and support the independence of, their loved ones.

16. Plaintiff Asociación Instituto Salvadoreño de Educación Cooperativa y Agricultura Orgánica (ISEAC) is an organization that works in six rural communities in the department of Ahuachapán, El Salvador—an area impacted by drought and food insecurity. Its mission is to strengthen local agricultural practices, including by increasing crop diversification and organic production. ISEAC began working with the Foundation in 2021, receiving a total of \$280,000 between 2021 and 2024. In 2024, it applied for and was awarded an additional \$242,700, extending the grant through October 2026. It has used those funds to aid small farmers, teaching them farm-management techniques that will allow their land to be more productive in the long run. Under the grant, it has worked directly with 245 families, teaching them how to use the ancestral milpa system—a traditional Mesoamerican agricultural practice where crops are mixed in the same field, creating a sustainable and diverse food system.

17. Defendant Peter Marocco is the Acting Deputy Administrator for Policy and Planning and for Management and Resources for the U.S. Agency for International Development (“USAID”) and Director of Foreign Assistance at the Department of State. Marocco also claims to be Chair of the Board of the Foundation, but his appointment to that position was *ultra vires* and thus without effect. He is sued in his official capacity.

18. Defendant Dominic Bumbaca claims to be the President of the Foundation, but his appointment to that position was *ultra vires* and thus without effect. He is sued in his official capacity.

19. Defendant Sergio Gor is the Director of the White House Presidential Personnel Office. He is sued in his official capacity.

20. Defendant U.S. DOGE Service is an entity that was created within the Executive Office of the President by Executive Order 14158.

21. Defendant U.S. DOGE Service Temporary Organization is an entity that was created within the Executive Office of the President by Executive Order 14158.

22. Defendant Amy Gleason is the Acting Administrator of both the U.S. DOGE Service and U.S. DOGE Service Temporary Organization. She is sued in her official capacity.

23. Defendant Donald J. Trump is the President of the United States. He is sued in his official capacity.

24. Defendant Department of the Treasury is a Cabinet-level agency of the U.S. government. It is headquartered in Washington, D.C.

25. Defendant Scott Bessent is the Secretary of the Treasury and is sued in his official capacity.

LEGAL BACKGROUND

Congress's Power of the Purse

26. The framers of the U.S. Constitution intended Congress to exercise plenary power over federal spending: Its “power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.” The Federalist No. 58, at 359 (James Madison) (Clinton Rossiter ed., 1961).

27. To effectuate congressional control over federal spending, the Constitution's Spending Clause provides: “The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.” U.S. Const. art. I, § 8, cl. 1.

28. Relatedly, the Appropriations Clause states: “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” U.S. Const. art. I, § 9, cl. 7.

29. The Spending and Appropriations Clauses, among other provisions, operate together to grant Congress exclusive power over the federal purse, including the authority to attach conditions to the use of federal funds.

30. The President lacks discretion to refuse to spend appropriated funds for the purposes and projects Congress has directed. The Constitution imposes on the President a duty to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3. This clause prohibits the executive from disregarding duly enacted laws.

31. Congress also has acted specifically to protect its constitutionally derived authority to control federal spending by enacting the Congressional Budget and Impoundment Control Act of 1974 (“Impoundment Act”), Pub. L. No. 93-344, Tit. X, 88 Stat. 297. The Impoundment Act confirms that the President lacks power to unilaterally refuse to spend congressionally appropriated funds. The President may *propose* rescission of “all or part of any budget authority,” but—unless Congress “complete[s] action on a rescission bill rescinding all or part of the amount proposed” within 45 days, the funds “shall be made available for obligation.” 2 U.S.C. § 683(a), (b).

32. Congress’s intent in passing the Impoundment Act could not be more clear. “No matter how prudently Congress discharges its appropriations responsibility, legislative decisions have no meaning if they can be unilaterally abrogated by executive impoundments.” H.R. Rep. No. 93-658, at 16 (1973). Neither “the President [nor] federal agencies may [] ignore statutory mandates or prohibitions merely because of policy disagreement with Congress.” *In re Aiken Cnty.*, 725 F.3d 255, 260-61 (D.C. Cir. 2013). “[T]he President’s duty to enforce the laws necessarily extends to appropriations ... meaning that failure to act may be an abdication of the President’s constitutional role.” *City and Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1234 (9th Cir. 2018).

33. The Anti-Deficiency Act, Pub. L. No. 97-258, 96 Stat. 877 (1982), imposes similar restrictions. Government officials violate that statute if they establish a reserve by withholding appropriated funds from a congressionally assigned program, except for certain limited exceptions. *See* 31 U.S.C. §§ 1301(a), 1512(c)(1). In apportioning or reappportioning an appropriation, “a reserve may be established only—(A) to provide for contingencies; (B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (C) as specifically provided by law.” *Id.* § 1512(c)(1). Funds appropriated by Congress may not be placed in a reserve for any other purpose.

The President’s Limited Power to Appoint Acting Officers

34. The Federal Vacancies Reform Act is the “exclusive means for temporarily authorizing an acting official to perform the functions of an Executive agency ... for which appointment is required by the President, by and with the advice and consent of the Senate,” with only certain, limited exceptions. 5 U.S.C. § 3347(a). The Act provides that it “shall not apply” to members appointed by the President, by and with the advice and consent of the Senate, to a multi-member board of an independent establishment or government corporation. *Id.* § 3349c. Unless an acting appointment is made consistent with its provisions, an office “shall remain vacant,” *id.* § 3348(b)(1), and actions taken by an individual purporting to serve in an acting capacity, but whose service does not comply with the Act, shall have “no force and effect,” *id.* § 3348(d)(1).

35. Absent congressional authorization, the Appointments Clause bars the President from appointing acting officers. That Clause requires the President to obtain “the Advice and Consent of the Senate” before appointing principal “Officers of the United States,” U.S. Const. art II, § 2, cl. 2. It makes no provision for service in an acting capacity. Any other understanding of the Clause would deprive Congress of one of the most “critical structural safeguard[s] of the constitutional scheme.” *NLRB v. Sw. Gen. Inc.*, 580 U.S. 288, 293 (2017) (cleaned up).

The Inter-American Foundation Act

36. Congress created the Foundation in 1969 as a unique U.S. foreign assistance program supporting social and economic development in Latin America and the Caribbean. The Foundation’s organic statute confirms that its activities are to be carried out “primarily in cooperation with private, regional, and international organizations.” 22 U.S.C. § 290f(b).

37. The Foundation exists as a “body corporate,” *id.* § 290f(a), to carry out its legislatively directed purposes “to (1) strengthen the bonds of friendship and understanding among the peoples of this hemisphere; (2) support self-help efforts designed to enlarge the opportunities for individual development; (3) stimulate and assist effective and ever wider participation of the people in the development process; [and] (4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.” *Id.* § 290f(b). Congress further directed the Foundation to “place primary emphasis” on education, food security, agricultural development, and environmental conditions promoting health, housing, free trade unions, “and other social and economic needs of the people.” *Id.*

38. Congress instructed the Foundation to carry out its purposes by working primarily with nongovernmental organizations, including “private organizations, individuals, and international organizations ... undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.” *Id.* § 290f(c).

39. Congress took steps to ensure the Foundation’s ability to function flexibly and independently to achieve its mission.

40. Of particular importance, Congress affirmed that “[t]he Foundation ... shall have perpetual succession unless sooner dissolved by an Act of Congress.” *Id.* § 290f(e)(1).

41. The Foundation has authority to hire “and fix the compensation of” up to 100 employees. *Id.* § 290f(e)(5). It also enjoys broad authority to purchase, acquire, accept as a gift, lease, or otherwise hold real and personal property, domestic or abroad, and to “in any manner dispose of all such” property and use the proceeds as general funds for its mission. *Id.* § 290f(e)(6).

42. The Foundation possesses an unusual gift authority that allows it to directly receive tax-deductible funds from the private sector—*i.e.*, from charitable foundations or other sources—and pool that money with its own appropriations when funding projects. Specifically, the Foundation “may accept money, funds, property, and services of every kind by gift, devi[s]e, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes.” *Id.* § 290f(e)(9).

43. Congress also granted the Foundation “such other powers as may be necessary and incident to carrying out its powers and duties.” *Id.* § 290f(e)(11).

44. Governance of the Board is entrusted to a nine-member Board of Directors (“Board”), members of which are chosen by the President and subject to Senate confirmation. *Id.* § 290f(g). Board members serve staggered six-year terms, but are eligible to remain in office if a replacement has not been confirmed at the expiration of their term. Congress specified that the Board come from a mix of “private life” and officers or employees of certain public agencies, that its membership be balanced between the political parties, and that “individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes.” *Id.* The duly appointed “Board shall direct the exercise of all the powers of the Foundation.” *Id.* § 290f(i).

45. Administration of the Foundation is entrusted to a president and chief executive officer “who shall be appointed by the Board of Directors on such terms as the Board” determines. *Id.* § 290f(j).

46. In 2024, Congress appropriated \$47 million “[f]or necessary expenses to carry out the functions of the Inter-American Foundation.” Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, Div. F, tit. III, 138 Stat. 460, 746 (2024). These funds are “to remain available until September 30, 2025.” *Id.* Congress reaffirmed its commitment to the Foundation by providing it with the same level of funding in a continuing resolution that became law on March 15, 2025. *See* Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025).

47. Congress exercised its power to create a strong presumption against administrative actions that would fundamentally alter the Foundation. Specifically, the Foundation is included among foreign-aid agencies that Congress prohibited from using any of its funding to “implement a reorganization, redesign, or other plan” that would “expand, eliminate, consolidate, or downsize covered departments, agencies, or organizations, including the transfer to other agencies of the authorities and responsibilities of such bureaus and offices,” unless the agency first consults with the Appropriations Committee in each chamber and “include[s] a detailed justification.” Pub. L. No. 118-47, Div. F, tit. III, § 7063(a), (b)(1), 138 Stat. at 843-44.

FACTUAL ALLEGATIONS

The Executive Order

48. On February 19, 2025, President Trump signed an executive order with the purpose “to dramatically reduce the size of the Federal Government” by “commenc[ing] a reduction in the elements of the Federal bureaucracy that the President has determined are unnecessary.” Exec. Order No. 14217, *Commencing the Reduction of the Federal Bureaucracy* (“Dismantling EO”), 90 Fed. Reg. 10577 (Feb. 19, 2025).

49. The Dismantling EO targets four independent agencies, including the Foundation. It provides that all “non-statutory components and functions of the” targeted agencies “shall be eliminated to the maximum extent consistent with applicable law, and such entities shall reduce the performance of their statutory functions and associated personnel to the minimum presence required by law.” *Id.* It also directs the “head of each unnecessary governmental entity” to submit a report to the Director of the Office and Management and Budget (“OMB”) “confirming compliance” and indicating whether any of its components or functions are statutorily mandated. *Id.*

50. The Dismantling EO further directs the OMB Director, “to the extent consistent with applicable law,” to reject funding requests from the “unnecessary” agencies “to the extent they are inconsistent with this order.” *Id.*

Unlawful Actions Taken to Shutter the Foundation

51. DOGE acted swiftly to decimate the Foundation.

52. The day after President Trump signed the Dismantling EO, two U.S. DOGE Service representatives in their twenties, with no prior government experience—Ethan Shaoiran and Nate Cavanaugh—appeared at the Foundation’s offices. The Foundation’s duly appointed President, Sara Aviel, and other members of leadership met with the DOGE representatives, who falsely asserted that their intent was to help improve the Foundation’s technology and systems.

53. Aviel and her team were aware of the Dismantling EO but were operating under the reasonable assumption that a rational, legal process would control DOGE’s actions. Foundation leadership both intended and attempted to work with DOGE to demonstrate that the Foundation had cut costs and was an efficient and successful agency. Neither Aviel nor other members of her leadership team had any inkling that DOGE intended to shut the Foundation down without a comprehensive review.

54. Shaotran and Cavanaugh returned the following day, February 21, 2025, with another DOGE representative, a lawyer named Jacob Altik. Altik claimed to have reviewed the Foundation's organic statute and determined that its minimum statutory presence required only the existence of a Board, a president/CEO, an office in Washington, D.C., and the existence of one or two grants. The DOGE representatives demanded that Aviel sign on to their interpretation of the Foundation's minimum statutory presence.

55. On a follow-up call the following Monday, February 24, DOGE pressed Foundation leadership to sign memoranda of understanding with the General Services Administration—the federal agency whose authority DOGE agents represented themselves as exercising—granting Shaotran and Cavanaugh full access to Foundation systems under the guise of technical support.

56. Foundation leadership declined this offer, explaining that the Foundation did not need help with technology, but Shaotran, Cavanaugh, and Altik began to issue ultimatums if leadership did not cooperate with their attempt to gain unfettered access to the Foundation's computer systems.

57. The DOGE representatives also pressed Aviel to call an immediate, Friday afternoon Board meeting to secure the Board's alignment with DOGE's statutory interpretation of the Foundation's minimum presence.

58. Aviel pushed back, stating that it would be very difficult, if not impossible, to convene a Board meeting without more notice. Even apart from Board members' personal schedules, Aviel noted, there are legal requirements that govern Board meetings. The Government in Sunshine Act applies to the Foundation's Board meetings and commands that "every portion of every meeting of an agency [covered by the Act] shall be open to public observation," 5 U.S.C. § 552b(b), unless one of several narrow exceptions applies. It also requires the Board to publish in the *Federal Register* at least a week in advance the time, place, and subject matter of its meetings, whether the meeting will be

open to the public, and the contact information for an employee who can provide the public additional information about the meeting. *Id.* § 522b(e).

59. DOGE representatives responded that they did not need an official, legally compliant Board meeting to take place—they simply needed an immediate answer from the Board members as to whether they would ratify DOGE’s statutory interpretation and intended gutting of the agency. DOGE further indicated an intent to terminate the Board if it refused to ratify DOGE’s actions.

60. Shortly after this meeting, Aviel was contacted by congressional stakeholders from both parties and both chambers urging the Foundation to resist DOGE’s efforts to dismantle the agency. These stakeholders noted that any efforts to reduce the Foundation’s functions would be inconsistent with the fact that Congress had forbid it from reorganizing, eliminating functions, or downsizing without first notifying Congressional appropriations committees and providing a detailed justification for such actions. *See supra* ¶ 47.

61. Aviel asked DOGE for a written explanation of DOGE’s assessment that the Foundation’s minimum statutory presence consisted of only a Board, a president, a D.C. office, and one or two grants. Cavanaugh responded with an email, sent from a GSA email address and copying Altik, containing six bullet points—each of which contained a copied-and-pasted provision from the Foundation’s organic statute in which Congress used the word “shall.”

62. Separately, DOGE reached out to one of four duly appointed and Senate-confirmed members of the Foundation’s Board, Lou Viada, whom DOGE apparently believed, based solely on DOGE’s perceptions of Viada’s political leanings, would be sympathetic to its cause. Altik, the DOGE lawyer, called Viada and said he wanted to check whether Viada was “aligned” with the Dismantling EO and the planned reduction of the Foundation’s staff.

63. Viada responded that he was aligned with the notion of analyzing efficiency, saving money, and eliminating fraud—which he understood to be DOGE’s mission—believing that DOGE

was functioning as a consulting group that would work with Foundation staff to analyze and provide recommendations on individual programs. As so stated, Viada indicated alignment with *that* mission.

64. Altik told Viada that Viada was the only remaining active Board member and that his three colleagues had been fired. Viada asked if the other Board members had received notification of their termination; Altik acknowledged that the other Board members had yet to receive notice of their alleged termination. He further indicated that DOGE wanted Viada to sign some papers and help DOGE execute its process to dismantle the Foundation.

65. Viada then contacted the other Board members and confirmed that they had *not* received notices of termination. As it became clear that DOGE desired a more-legitimate-seeming entry point to have an existing Board member ratify their planned elimination of the Foundation, Viada told Altik that he would decline to assist those efforts and preferred to work with his Board colleagues. Altik told Viada that he could choose between being fired alongside his colleagues or he could resign if he was unwilling to do as DOGE demanded. Viada refused to resign.

66. On February 26, Viada received an email from Trent Morse, Deputy Director of the Presidential Personnel Office, stating that he had been terminated. The other three Board members never received any notice of their termination. As of the date of filing this action, the other Board members are uncertain whether Defendants attempted to send them a notice of termination to their Foundation email accounts (to which they no longer have access).

67. That same day, Morse sent Aviel a one-line email asserting that she had been fired from her position as President and CEO of the Foundation.

68. Then on February 28, Morse sent an email to Foundation leadership stating that all members of the Board had been fired and that President Trump had designated Defendant Peter Marocco to be Acting Chair of the Foundation's Board. The email acknowledged that the President does not have statutory authority under either the Foundation's organic statute or the Federal

Vacancies Reform Act of 1998, 5 U.S.C. §§ 3345–3349, to appoint acting board members, but nonetheless asserted that President Trump was exercising inherent authority.

69. On Friday, February 28, Marocco purported to hold an “emergency closed session of the board of directors ... to discuss personnel issues.” 90 Fed. Reg. 11546 (Feb. 28, 2025). Shaotran and Cavanaugh were present for this meeting. The “transcript” of this meeting—the substance of which spans only about a dozen lines of informal notes—reveals that Marocco claimed that “there’s no time to give public notice of 1 week, pursuant to” the Sunshine Act, because “President Trump’s EO says this agency needs to be reduced to statutory minimum (and we need to send a report to OMB).”² Marocco then claimed “a majority of the board” (meaning only himself) voted to hold the meeting immediately, despite the fact that it was minutes before 5 p.m. on a Friday and “no one is here to let me in” to Foundation offices, and that the General Counsel had not certified that the meeting could be closed to the public as required by 22 C.F.R. § 1004.6(d). *Id.* Marocco claimed that the meeting could nonetheless be closed because it “relate[d] solely to the personnel rules and practices of the agency.” *Id.* Finally, as “Chairman and only member of the board,” Marocco “designat[ed] [himself] as the acting CEO and President” of the Foundation, and also apparently took some other action that is redacted in the document attached to the Federal Register notice. *Id.*

70. Prior to her termination, Aviel had received notice through another member of the Foundation leadership team that the Treasury Department planned unilaterally to cancel the Foundation’s contracts by close of business on February 27. Aviel and her staff had pushed back with a detailed response, asserting that (among other reasons) Treasury functioned as the Foundation’s bank, essentially conducting administrative-payment functions, and lacked any authority over the Foundation’s congressionally appropriated funding or its contracts.

² <https://drive.google.com/file/d/1opNCP4BHPx1oqFl1i8jbnMV4HinyYVvt/view>.

71. After Aviel was fired, DOGE representatives found a backdoor method to effectuate these actions. The Foundation's contracts long had been processed and paid through the Administrative Resource Center (ARC), run by the Treasury Department's Bureau of Fiscal Service. Under the direction of Marocco, purporting to be the Foundation's President, DOGE accessed ARC and acted unilaterally to cancel virtually all of the Foundation's contracts.

72. DOGE then used the Foundation's own system to send termination communications on March 4 to all of the Foundation's active grantees, with the exception of a single grant.

73. DOGE unlawfully canceled roughly 400 active grants in 27 countries, each of which was focused on promoting economic prosperity, advancing democratic governance, and/or fostering peace and security.

74. DOGE also locked the majority of Foundation employees out of their IT systems and emails at the end of the day on March 3 and shuttered the agency's public-facing website.

75. DOGE then placed nearly all of the Foundation's employees on administrative leave on that same day, March 3. The following day, the employees were given notice that they are subject to a widescale Reduction in Force that DOGE intends to use to terminate all, or nearly all, of the Foundation's roughly three-dozen employees. On information and belief, all but two or three Foundation employees will be terminated effective April 4. This means that, instead of the 60 days' notice normally given under Office of Personnel Management regulations, *see* 5 C.F.R. § 351.801(a), Foundation employees were given only 30 days' notice.

76. Marocco subsequently purported to install Dominic Bumbaca as President of the Foundation, effective March 7, 2025.

77. These collective actions have effectively dismantled the Foundation, which, in all relevant respects, no longer is operating as Congress directed. In particular, the Foundation has tens

of millions of dollars in congressionally appropriated funds that Defendants' actions have prevented the agency from spending to fulfill its legislatively directed mission.

HARMS TO GRANTEES

78. On March 4, 2025, each Plaintiff received a materially identical letter from Morocco informing them that their Foundation grants had been canceled. The letter informed Plaintiffs that their grants were "inconsistent with the agency's priorities." It further stated that the "President's February 19, 2025 executive order mandates that the [Foundation] eliminate all non-statutorily required activities and functions." It did not provide any other explanation. The letter also instructed Plaintiffs to send any remaining "unspent funds to the IAF, in accordance with the termination clause and local law, within fifteen (15) days or as soon as practicable."

79. The immediate, sudden cancelation of these grants has caused Plaintiffs grave harm. For example, Plaintiff Cristosal is owed more than \$120,000 under the terms of its grant with the Foundation, and has already diverted more than \$70,000 from other sources to cover expenses incurred. As a result of the termination, Cristosal will be unable to continue providing essential legal, humanitarian, and mental health services to 372 individuals. Cristosal will also be forced to halt a project designed to document patterns of forced displacement, information critical to its efforts to support national governments in fulfilling their obligations to protect citizens who are victims of human rights abuses in El Salvador, Guatemala, and Honduras. The termination of these funds will hamper Cristosal's ability to address the root causes of migration from the countries in which it operates.

80. Plaintiff Corpocaminos faces a similar threat. Corpocaminos is owed \$116,247 under the terms of its grant. Without Foundation funds, there is a material risk that Colombia's Ministry of Education will revoke Corpocaminos's accreditation, leading to the college's dissolution. Colombian

law requires newly established institutes like Corpocaminos to derive a portion of their funds from sources other than tuition. Corpocaminos had been using its Foundation grant for that purpose.

81. Plaintiff ACPH is owed \$114,930 under the terms of its grant. The loss of these funds will have a devastating impact on ACPH's ability to operate. It has already been forced to dismiss key personnel without notice, which exposes ACPH to liability under local labor laws. It will no longer be able to offer training services to young people, leaving them without alternatives to learn job skills. That, in turn, could lead to an increase in migration out of Honduras. ACPH's ability to respond to floods with emergency supplies and care will also be significantly hampered.

82. At the time plaintiff Asociación Las Pregoneras received the March 4 letter, it was in the midst of negotiating a \$267,000 agreement with the Foundation as a follow-on to its 2023 grant. The only step remaining was for the Foundation's President to approve the agreement. Without these funds, Pregoneras will no longer be able to provide services to women and children at risk of violence. These populations face especially acute risks in the country where Pregoneras operates: in 2021, the Peruvian National Police registered more than 240,000 cases of domestic violence nationwide, and in 2023, there were approximately 12,000 cases of school violence. The end of Pregoneras's services increases the likelihood that women and children will flee Peru for the United States, as victims of domestic violence, sexual violence, and trafficking in Latin America often seek refuge in other countries.

83. Plaintiff Alternativas y Capacidades is owed \$43,000 under the terms of its grant. Without those funds, it will have to suspend its Social Laboratory for Youth-Led Initiative, directly affecting 40 youth leaders enrolled in that program. It will also be unable to issue an additional ten seed grants of \$2,500 each, which would have been used by recipients to start community impact projects.

84. Plaintiff Fundación Renace is owed \$9,336 under the terms of its grant. At the time the funds were terminated, Fundación Renace was working with a business association to prepare three bids for government contracts, under which the businesses would have made \$26,000 from selling bananas and \$90,300 from selling processed banana products. The loss of these contracts affects 200 families that produce the bananas; and an additional 60 individuals who process them into banana flour and other products. In addition, Fundación Renace was in the midst of helping three organizations prepare to respond to a government contract set to open in April. Absent the grant funds it is owed, Fundación Renace will be unable to continue providing that assistance.

85. Plaintiff Sociedad Cooperativa Las Mujeres Rurales de la Frontera Sur has received only \$12,600 of the \$237,780 owed to it under the terms of its grant. As a result of the termination of funds, it has had to lay off seven employees. In addition, Las Mujeres Rurales intended to provide loans and seed capital to about 600 women to expand their businesses, and it will no longer be able to offer that financing. Finally, Las Mujeres Rurales intended to provide funds for infrastructure updates to a community center used by over 300 children. That project, too, will now be impossible.

86. Plaintiff EIFODEC is owed \$121,750 under the terms of its grant. As a result of the loss of funding, it will no longer be able to train 120 disabled youth that it is currently educating. Nor will it be able to give 23 of those individuals seed funds to start their own businesses. It will no longer be able to provide support to families of those with disabilities. And it will have to lay off about ten staff members, leaving them without work at a time of economic hardship in Bolivia. The Foundation's lack of support will severely impair EIFODEC's ability to serve its intended population, and unless it is able to secure additional funds, it may consider closing.

87. Plaintiff ISEAC is owed \$187,700 under the terms of its grant. Without these funds, it will be unable to continue working with small farmers to move away from farming techniques that involve monocropping and the use of pesticides. This will reduce the capacity of the land to produce

food in a sustainable way—which will hamper the ability of families to sustain themselves and earn income. The sudden termination of ISEAC’s grant will therefore exacerbate food insecurity in the area, and could therefore lead to economic instability for rural communities and greater migration out of El Salvador.

88. Each Plaintiff also faces significant non-monetary harm from the termination of their relationship with the Foundation. Several were planning to participate in Foundation-sponsored exchanges, which would have allowed them to learn best practices related to their fields from other organizations in Latin America. Foundation liaisons have also provided each Plaintiff important support throughout the life of each grant. They connect Plaintiffs to other resources and organizations, and provide organizational and administrative troubleshooting support. In addition, monitoring and evaluation specialists from the Foundation visit each Plaintiff regularly. Those specialists provide technical support and advice, and have helped Plaintiffs improve their monitoring systems and strategies. Auditors contracted by the Foundation have also provided Plaintiffs with assistance related to accounting, documentation, and complying with relevant laws. These services have been critical to Plaintiffs’ growth and have enabled them to access additional funding from other sources.

89. Other grantees have suffered similar harms. According to an informal poll of 148 grantees (about 35 percent of all Foundation grantees) conducted over the last several weeks, more than 60 percent are at risk of closure due to the cancellation of Foundation funds. On average, Foundation funds make up 65.5 percent of these grantees’ budgets. For 44 percent of respondents, Foundation funds account for at least 70 percent of their budget. Collectively, these organizations will lose more than \$14 million in Foundation funds. The termination of Foundation funds also puts at risk an additional \$13.5 million that these organizations secured from other sources. And it will impact more than 85,000 beneficiaries of just these 148 organizations. In addition, 14 grantees have already

returned a total of \$762,253.21 to the federal government pursuant to the March 4, 2025 letter (before the federal government agreed to pause the requirement to return funds in a lawsuit challenging Aviel's dismissal). *See Aviel v. Gor*, No. 1:25-cv-778, Minute Entry for Status Conference & ECF No. 14-1 (D.D.C. Mar. 19, 2025).

CAUSES OF ACTION

Count I

Violation of the Separation of Powers

90. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

91. This Court has inherent equitable power to enjoin unconstitutional actions by the Executive Branch. *See Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010).

92. Defendants' actions to unilaterally impound the Foundation's congressionally appropriated funds exceeds the Executive Branch's constitutional authority and aggrandizes power over spending and appropriations that the Constitution vests in Congress.

93. The Appropriations Clause specifically states: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." U.S. Const. art. I, § 9, cl. 7. Defendants lack authority to disregard or overrule Congress's duly enacted appropriations by denying the Foundation all access to its funding. *In re Aiken Cnty.*, 725 F.3d 255, 260-61 (D.C. Cir. 2013).

94. According to the Spending Clause: "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States." U.S. Const. art. I, § 8, cl. 1. The Spending Clause grants Congress the power to determine federal expenditures, including whether to attach any conditions to federal funding.

95. Defendants' decisions to impound the Foundation's funding infringes Congress's exclusive power of the purse and exceeds executive authority.

96. The Presentment Clause provides that: “Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it.” U.S. Const. art. I, § 7, cl. 2. The President has no authority to alter duly enacted legislation—his power is limited to approving or rejecting in full legislation presented to him. *Clinton v. City of New York*, 524 U.S. 417, 439-40 (1998). Both the Foundation’s organic statute and the relevant appropriations bills are validly enacted laws that the President has no power to ignore, amend, modify, or partially veto.

97. The Take Care Clause obligates the President, and any subordinate officers to whom he delegates duties, to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3.

98. Defendants lack any authority, under the Constitution or statute, to usurp legislative power by functionally abolishing an agency created by Congress and that, as a matter of federal law, “shall have perpetual succession unless sooner dissolved by an Act of Congress.” 22 U.S.C. § 290f(e)(1). Defendants’ decimation of the Foundation violates the Take Care Clause.

99. Defendants’ hostile takeover of the Foundation flouts our constitutional structure.

Count II ***Ultra Vires Actions***

100. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

101. This Court has inherent equitable power to enjoin unconstitutional actions by the Executive Branch. *See Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010).

102. No part of the U.S. Constitution, statute, or other source of law authorizes Defendants to impound the Foundation’s funding. On the contrary, the Impoundment Act, the Anti-Deficiency Act, the 2024 Further Consolidated Appropriations Act, and the 2025 Full-Year Continuing Appropriations and Extensions Act obligate Defendants to allow the Foundation to access and disburse its congressionally appropriated funding.

103. Defendants’ unlawful impoundment is *ultra vires*.

104. In addition, the President lacks either statutory or inherent authority to invest Marocco as sole Board member and Chair in an acting capacity, or otherwise to bypass the statutorily mandated Senate confirmation process. Members of the Foundation’s Board must be appointed by the President and confirmed by the Senate. 22 U.S.C. § 290f(g). Marocco has not been nominated by the President nor confirmed by the Senate to the Foundation’s Board.

105. No provision of law authorizes the President to appoint an acting member of the Foundation’s Board. On the contrary, the Federal Vacancies Reform Act prohibits the President from installing members of the Board in an acting capacity. *See* 5 U.S.C. §§ 3348(b)(1), (d)(1), 3349c. And even if Marocco’s appointment does not violate the Federal Vacancies Reform Act, it violates the Appointments Clause. U.S. Const. art II, § 2, cl. 2. Marocco’s purported appointment to the Board is thus *ultra vires* and without effect.

106. Because Marocco has not been validly installed as Board Chair of the Foundation, actions he purported to take in that capacity are void *ab initio*. Most importantly, Marocco’s purported self-designation as President and CEO of the Foundation is invalid—as are any actions he purported to take as Foundation President. Illustratively, Marocco’s actions attempting to terminate Foundation staff and fully shuttering the Foundation’s public-facing website are null and void.

107. Marocco (and DOGE acting in concert with him) also lacked authority to cancel the Foundation’s grants and contracts. Any such cancellations or terminations are likewise null and void.

Count III **Violation of the Administrative Procedure Act—706(2)(A)**

108. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

109. The APA provides that a court “shall” “hold unlawful and set aside agency action” found to be “arbitrary” or “capricious.” 5 U.S.C. § 706(2)(A).

110. Defendants’ impoundment of the Foundation’s congressionally appropriated funding, and related actions taken to deny the Foundation access to such funding, is final agency action, *id.*

§ 704. “Agency action” encompasses an agency’s “denial” of “recognition” to a “claim” or “right”; the “denial” of a “grant of money”; and the “failure to act” or “withholding” with respect to claims, rights, and grants of money. *Id.* § 551(10), (11), (13).

111. Defendants’ decision to unilaterally cancel all of the Foundation’s grants and contracts constitutes arbitrary and capricious agency action. To survive arbitrary-and-capricious review, an agency must demonstrate that it “has reasonably considered the relevant issues and reasonably explained its decision.” *Fed. Commc’ns Comm’n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). An agency must provide a “satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation marks omitted). And the APA demands that, prior to upending longstanding policies that have engendered reliance interests, agencies must acknowledge their change in course and explain the reasons for doing so. *Fed. Commc’ns Comm’n v. Fox Television*, 556 U.S. 502, 515 (2009); *U.S. Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 30–31 (2020).

112. Defendants made no attempt to comply with these minimum requirements when terminating Plaintiffs’ grants (and all other Foundation grants, with the exception of a single award). On information and belief, Defendants did not produce any contemporaneous memorandum or other rationale for their decision to engage in the blanket cancellation of Foundation grants. Instead, the only contemporaneous record Defendants have produced are letters to Plaintiffs stating the unreasoned assertion that the Foundation’s grants suddenly were “inconsistent with the agency’s priorities” and that the President had “mandate[d] that the [Foundation] eliminate all non-statutorily required activities and functions.” *See supra* ¶ 77. This is the antithesis of a considered decision or a rational explanation. The APA demands more.

113. Defendants’ decision likewise failed to take into account the reliance interests of Plaintiff organizations or the communities they serve. Nor did they consider the impact on migration in the Western hemisphere that likely will result from the sudden cessation of longstanding programs and projects designed to ease the factors that cause people to migrate to the United States. These failures were arbitrary and capricious.

114. This Court should hold unlawful and set aside Defendants’ actions to withhold funds, and compel Defendants to otherwise make available the Foundation’s congressionally appropriated funding.

Violation of the Administrative Procedure Act—706(2)(A), (C)

115. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

116. The APA provides that a court “shall” “hold unlawful and set aside agency action” found to be “not in accordance with law,” “in excess of statutory jurisdiction,” “or short of statutory right.” 5 U.S.C. § 706(2)(A), (C).

117. Defendants’ blanket denial of funding is contrary to law and in excess of statutory authority because the Impoundment Act, the Anti-Deficiency Act, the 2024 Further Consolidated Appropriations Act, and the 2025 Full-Year Continuing Appropriations and Extensions Act all create a mandatory, nondiscretionary duty to make available and disburse the Foundation’s funds as needed for it to carry out its legislatively directed mission.

118. This Court should hold unlawful and set aside Defendants’ blanket denial of funding as contrary to law and in excess of statutory jurisdiction.

Violation of the Administrative Procedure Act—706(1)

119. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

120. The APA further provides that a reviewing court “shall” “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

121. Defendant Department of the Treasury has a mandatory, nondiscretionary duty to disburse funds in its care upon a lawfully presented disbursement request from a Foundation employee with delegated authority. Treasury essentially acts as the Foundation's "bank" and lacks authority to refuse payments or cancel its contracts.

122. Treasury has refused to fulfill that mandatory duty by impounding Foundation funds and unilaterally cancelling its contracts.

123. This Court should compel Defendant Department of the Treasury to fulfill its mandatory duty to disburse the Foundation's funding and reinstate its contracts.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court enter judgment in their favor and grant the following relief:

- a. A declaration that Peter Marocco's purported appointment to the Foundation's Board is *ultra vires*, without legal effect, and that any actions Marocco purported to take as Chairman of the Board are null and void, including his self-designation as President and CEO of the Foundation;
- b. A declaration that Marocco lacked legal authority (and thus could not delegate such authority to DOGE) to cancel the Foundation's contracts and grants and that those actions are thus void *ab initio*;
- c. A declaration that the Executive Branch's impoundment of the Foundation's congressionally appropriated funds violates the Separation of Powers, intrudes on power constitutionally vested with the legislature, constitutes agency action not in accordance with law, contrary to constitutional right, and in excess of statutory authority, *see* 5 U.S.C. § 706(2)(A)-(C), and violates the Impoundment Control Act and the Anti-Deficiency Act;

- d. A declaration that Morocco lacked legal authority (and thus could not delegate such authority to DOGE) to place Foundation employees on administrative leave and initiate a reduction in force as to Foundation employees, and such action is thus void *ab initio*;
- e. A preliminary and permanent injunction ordering Defendants to cease their unlawful impoundment of congressionally appropriated funds and otherwise to make available the Foundation's appropriated funds;
- f. A preliminary and permanent injunction prohibiting Defendants from continuing to keep Foundation employees on administrative leave and from implementing the unlawful reduction in force of Foundation employees, and requiring Defendants to reinstate employees to the positions they held prior to Morocco's unlawful actions;
- g. A preliminary and permanent injunction requiring Defendants to reinstate contracts and grants unlawfully canceled by Morocco or others acting in concert with him that were in effect as of February 28, 2025;
- h. A preliminary and permanent injunction requiring all Defendants to pay any grant funds unlawfully withheld since February 28, 2025, and to return any funds sent by grantees back to the federal government under the terms of the March 4 letter;
- i. A preliminary and permanent injunction prohibiting Defendant Peter Morocco, and any purported successors to him, including Defendant Dominic Bumbaca, from purporting to exercise the authority of the Inter-American Foundation Board or its President unless such successor shall be installed through the statutorily required process, 22 U.S.C. § 290f(g), (l).
- j. An award to Plaintiffs of reasonable costs and attorneys' fees; and
- k. Such other and further relief that this Court may deem fit and proper.

March 21, 2025

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CRISTOSAL HUMAN RIGHTS et al.,

Plaintiffs,

v.

PETER MAROCCO et al.,

Defendants.

Case No. _____

MEMORANDUM IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION

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INTRODUCTION

Urgent action from this Court is needed to halt a series of unlawful actions being taken to eviscerate an entire independent agency. Congress created the Inter-American Foundation more than 50 years ago to perform critical development work in the Western Hemisphere and took the unusual step of mandating that, as a matter of federal law, the agency “shall have perpetual succession unless sooner dissolved by an Act of Congress.” 22 U.S.C. § 290f(e). But after President Trump decreed the Inter-American Foundation to be “unnecessary,” administration officials launched a full-scale hostile takeover of the agency, usurping the power of its bipartisan, presidentially appointed and Senate-confirmed Board of Directors; purporting to fire its president and chief executive officer; impounding its congressionally appropriated funding; shuttering its website; canceling its contracts and development grants; moving to fire virtually all of its employees; and purporting to install Defendant Peter Marocco as the Acting Chair of the Foundation’s Board and as its President. These actions have caused chaos at the agency and are irreparably harming Plaintiffs and similarly situated grantees—community-development organizations from across Latin America that depend on a reliable flow of funding from the Foundation’s grants to perform vital work aimed at reducing the factors that drive mass migration in the region. Absent this Court’s intervention, as many as 60 percent of Foundation grantees are at risk of collapse.

Defendants cannot abolish by executive fiat an agency created by Congress. Defendants likewise lack authority to impound funds Congress appropriated, reaffirmed in the recently enacted continuing resolution, and directed the Foundation to spend to carry out its mission. These actions flout separation of powers principles and violate numerous provisions of the U.S. Constitution, including the Appropriations Clause, the Spending Clause, the Presentment Clause, and the Take Care Clause. Marocco’s purported appointment as Acting Chair of the Board also violates the Federal Vacancies Reform Act. And Defendants’ decisions to choke off the Foundation’s funding and cancel

wholesale all of its contracts and grants constitute arbitrary and capricious agency action, and agency action unlawfully withheld, in violation of the Administrative Procedure Act.

Defendants' unlawful and unconstitutional actions pose a grave threat to Plaintiffs and to the community members that rely on Plaintiffs' projects. Absent prompt intervention from this Court halting Defendants' continuing disregard for the rule of law, Plaintiffs and their local constituents will continue to suffer ongoing, irreparable harm.

BACKGROUND

I. The Inter-American Foundation Act

Congress created the Inter-American Foundation in 1969 as a unique foreign-assistance program supporting social and economic development in Latin America and the Caribbean. The Foundation's activities are carried out "primarily in cooperation with private, regional, and international organizations." 22 U.S.C. § 290f(b). This sets the Foundation apart from other foreign aid agencies that rely on government-to-government funding mechanisms or international contractors. *See* Compl. ¶ 2. The Foundation has invested in nearly 6,000 community development projects in 35 countries, focused on addressing the root causes of migration by promoting economic stability, reducing violence, and strengthening democratic governance. These projects work to build peaceful and safe communities, expand economic opportunities through job creation and entrepreneurship, strengthen civic engagement, and enhance social and economic inclusion. *Id.* By empowering local communities to solve their own problems, the Foundation's work has been one of the United States' most effective and powerful tools to strengthen and build local communities in developing nations throughout the Western Hemisphere—a key effort to address the root causes of mass migration. *Id.*

Congress created the Foundation as a "body corporate," 22 U.S.C. § 290f(a), to carry out its legislatively directed purposes "to (1) strengthen the bonds of friendship and understanding among

the peoples of this hemisphere; (2) support self-help efforts designed to enlarge the opportunities for individual development; (3) stimulate and assist effective and ever wider participation of the people in the development process; [and] (4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.” *Id.* § 290f(b).

Congress took steps to ensure the Foundation’s ability to function flexibly and independently. Of particular importance, Congress affirmed that “[t]he Foundation ... shall have perpetual succession unless sooner dissolved by an Act of Congress.” *Id.* § 290f(e). It is governed by a nine-member Board of Directors (“Board”), members of which are chosen by the President with the advice and consent of the Senate. *Id.* § 290f(g). Board members serve staggered six-year terms but are eligible to remain in office if a replacement has not been confirmed at the expiration of their terms. *Id.* Congress specified that the Board come from a mix of “private life” and officers or employees of certain public agencies; that its membership be balanced between the political parties; and that “individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes.” *Id.* The duly appointed “Board shall direct the exercise of all the powers of the Foundation.” *Id.* § 290f(i). Day-to-day administration is entrusted to a president and chief executive officer “who shall be appointed by the Board of Directors on such terms as the Board” determines. *Id.* § 290f(j).

Congress recently reiterated the Foundation’s importance. Last year, Congress appropriated \$47 million “[f]or necessary expenses to carry out the functions of the Inter-American Foundation.” Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, Div. F, tit. III, 138 Stat. 460, 746 (2024). These funds are “to remain available until September 30, 2025.” *Id.* And they may not be used to “implement a reorganization, redesign, or other plan” that would “expand, eliminate, consolidate, or downsize” the Foundation, “including the transfer to other agencies” of its “authorities and

responsibilities,” unless the Foundation first consults with the Appropriations Committee in each chamber and “include[s] a detailed justification.” *Id.* § 7063(a), (b), 138 Stat. at 843-44. Indeed, even after the events described herein, Congress chose to continue the Foundation’s funding in the recently enacted continuing resolution. *See* Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025).

II. Defendants’ Actions to Dismantle the Foundation

On February 19, 2025, President Trump signed an executive order with the purpose “to dramatically reduce the size of the Federal Government” by “commenc[ing] a reduction in the elements of the Federal bureaucracy that the President has determined are unnecessary.” Exec. Order No. 14217, *Commencing the Reduction of the Federal Bureaucracy* (“Dismantling EO”), 90 Fed. Reg. 10577. The Dismantling EO targets four independent agencies, including the Foundation. It provides that all “non-statutory components and functions of the” targeted agencies “shall be eliminated to the maximum extent consistent with applicable law, and such entities shall reduce the performance of their statutory functions and associated personnel to the minimum presence required by law.” *Id.* at 10577. It also directs the “head of each unnecessary governmental entity” to submit a report to the Director of the Office of Management and Budget “confirming compliance” and indicating whether any of its components or functions are statutorily mandated. *Id.* The Dismantling EO further directs the OMB Director, “to the extent consistent with applicable law,” to reject funding requests from the “unnecessary” agencies “to the extent they are inconsistent with this order.” *Id.*

The day after President Trump signed the Dismantling EO, DOGE descended on the Foundation with the intent to decimate the agency. Two U.S. DOGE Service representatives in their twenties, with no prior government experience—Ethan Shaoiran and Nate Cavanaugh—appeared at the Foundation’s offices. Compl. ¶ 52. The Foundation’s duly appointed President, Sara Aviel, and other members of leadership met with the DOGE representatives, who falsely asserted that their

intent was to help improve the Foundation's technology and systems. *Id.* Aviel and her team were aware of the Dismantling EO but presumed that a rational, legal process would control DOGE's actions. Foundation leadership both intended and attempted to work with DOGE to demonstrate that it had cut costs and was an efficient and successful agency; neither Aviel nor other members of her leadership team anticipated that DOGE intended to shutter the agency completely. *Id.* ¶ 53.

Shaotran and Cavanaugh returned the following day with another DOGE representative, a lawyer named Jacob Altik. Altik claimed to have reviewed the Foundation's organic statute and determined that its minimum statutory presence required only the existence of a Board, a president/CEO, an office in Washington, D.C., and one or two grants. The DOGE representatives demanded that Aviel sign on to their interpretation of the Foundation's minimum statutory presence. *Id.* ¶ 54 On a follow-up call the following Monday, February 24, DOGE representatives pressed Foundation leadership to sign memoranda of understanding with the General Services Administration that would grant Shaotran and Cavanaugh full access to Foundation systems under the guise of technical support. *Id.* ¶ 55.

Foundation leadership declined, explaining that it did not need help with technology, but the DOGE representatives began to issue ultimatums if leadership did not cooperate with their attempt to gain unfettered access to the Foundation's computer systems. *Id.* ¶ 56. DOGE representatives then pressed Aviel to call an immediate, Friday afternoon Board meeting to secure the Board's alignment with DOGE's interpretation of the Foundation's minimum statutory presence. *Id.* ¶ 57. Aviel pushed back, stating that it would be very difficult, if not impossible, to convene a Board meeting without more notice. Even apart from Board members' personal schedules, Aviel noted, certain legal requirements govern Board meetings. *Id.* ¶ 58. DOGE representatives responded that they did not need an official, legally compliant Board meeting to take place—they simply needed an immediate answer from the Board members as to whether they would ratify DOGE's statutory interpretation

and intended gutting of the agency. DOGE further indicated an intent to terminate the Board if it refused to ratify DOGE's actions. *Id.* ¶ 59.

Shortly thereafter, Aviel was contacted by congressional stakeholders from both parties and both chambers urging the Foundation to resist DOGE's efforts and pointing out that any effort to reduce the Foundation's functions would be inconsistent with the fact that Congress had forbid it from reorganizing, eliminating functions, or downsizing without first notifying congressional appropriations committees and providing a detailed justification for such actions. *Id.* ¶ 60.

Aviel asked DOGE for a written explanation of its assessment that the Foundation's minimum statutory presence consisted of only a Board, a president, a D.C. office, and one or two grants. Cavanaugh responded with an email, sent from a GSA email address and copying Altik, containing six bullet points—each of which contained a copied-and-pasted provision from the Foundation's organic statute in which Congress used the word “shall.” Compl. ¶ 61.

DOGE separately was making overtures to one of four duly appointed and Senate-confirmed members of the Foundation's Board, Lou Viada, whom DOGE apparently believed—based solely on DOGE's perceptions of Viada's political leanings—would be sympathetic to its cause. Altik, the DOGE lawyer, called Viada and said he wanted to check whether Viada was “aligned” with the Dismantling EO and the planned reduction of the Foundation's staff. Compl. ¶ 62. Viada responded that he was aligned with the notion of analyzing efficiency, saving money, and eliminating fraud—which he understood to be DOGE's mission. As so stated, Viada indicated alignment with *that* mission. *Id.* ¶ 63. Altik told Viada that Viada was the only remaining active Board member and that his three colleagues had been fired. Viada asked if the other Board members had received notification of their termination; Altik acknowledged that the other Board members had not. He further indicated that DOGE wanted Viada to sign some papers and help DOGE execute its process to dismantle the Foundation. *Id.* ¶ 64.

Viada then contacted the other Board members and confirmed that they had *not* received notices of termination. As it became clear that DOGE desired a legitimate-seeming entry point by having an existing Board member ratify their planned elimination of the Foundation, Viada told Altik that he would decline to assist those efforts and preferred to work with his Board colleagues. Altik told Viada that he could choose between being fired alongside his colleagues or he could resign if he was unwilling to do as DOGE demanded. Viada refused to resign. *Id.* ¶ 65. On February 26, Viada received an email from Trent Morse, Deputy Director of the Presidential Personnel Office, stating that he had been terminated. The other three Board members never received any notice of their termination and remain unsure whether Defendants attempted to send notices of termination to their Foundation email accounts (to which they no longer have access). *Id.* ¶ 66.

That same day, Morse sent Aviel a one-line email asserting that she had been fired from her position as President and CEO of the Foundation. *Id.* ¶ 67. Two days later, on February 28, Morse sent an email to Foundation leadership stating that all members of the Board had been fired and that President Trump had designated Defendant Peter Marocco to be Acting Chair of the Foundation’s Board. The email acknowledged that the President does not have statutory authority under either the Foundation’s organic statute or the Federal Vacancies Reform Act of 1998, 5 U.S.C. §§ 3345–3349d, to appoint acting board members, but nonetheless asserted that President Trump was exercising inherent authority. *Id.* ¶ 68.

On Friday, February 28, Marocco purported to hold an “emergency closed session of the board of directors ... to discuss personnel issues.” 90 Fed. Reg. 11546 (Feb. 28, 2025). Shaotran and Cavanaugh were present. The “transcript” of this meeting—the substance of which spans only about a dozen lines of informal notes—reveals that Marocco claimed that “there’s no time to give public notice of” the meeting because “President Trump’s EO says this agency needs to be reduced to statutory minimum (and we need to send a report to OMB).” Compl. ¶ 69. Marocco then claimed “a

majority of the board” (meaning only himself) voted to hold the meeting immediately, despite the fact that it was minutes before 5 p.m. on a Friday, no one was there to let him in to Foundation offices, and the General Counsel had not certified that the meeting could be closed to the public as required under 22 C.F.R. § 1004.6(d). *Id.* Morocco claimed that the meeting could nonetheless be closed because it “relate[d] solely to the personnel rules and practices of the agency.” *Id.* Finally, as “Chairman and only member of the board,” Morocco “designat[ed] [himself] as the acting CEO and President” of the Foundation, and also apparently took some other action that is redacted in the document attached to the Federal Register notice. *Id.*

Prior to her termination, Aviel had received notice through another member of the Foundation leadership team that the Treasury Department planned unilaterally to cancel the Foundation’s contracts by close of business on February 27. *Id.* ¶ 70. Aviel and her staff had provided a detailed response, asserting that (among other reasons) Treasury functioned as the Foundation’s bank, essentially conducting administrative-payment functions, and lacked any authority over the Foundation’s congressionally appropriated funding or its contracts. *Id.* After Aviel was fired, DOGE representatives found a backdoor method to effectuate these actions. The Foundation’s contracts long had been processed and paid through the Administrative Resource Center (“ARC”), run by the Treasury Department’s Bureau of Fiscal Service. Under the direction of Morocco, purporting to be the Foundation’s President, DOGE accessed ARC and acted unilaterally to cancel virtually all of the Foundation’s contracts. *Id.* ¶ 71. DOGE then used the Foundation’s own systems to send termination communications on March 4 to all of the Foundation’s active grantees, with the exception of a single grant. *Id.* ¶ 72. DOGE unlawfully canceled roughly 400 active grants in 27 countries, each of which was focused on promoting economic prosperity, advancing democratic governance, and/or fostering peace and security. *Id.* ¶ 73. The Foundation currently has tens of millions of dollars in congressionally

appropriated funds that Defendants' actions have prevented the agency from spending to fulfill its legislatively directed mission. *Id.* ¶ 76.

DOGE also locked the majority of Foundation employees out of their IT systems and email accounts at the end of the day on March 3 and shuttered the agency's public-facing website. *Id.* ¶ 74. DOGE then placed nearly all of the Foundation's employees on administrative leave that same day. The following day, employees were given notice that they are subject to a widescale reduction in force ("RIF") that DOGE intends to use to terminate all, or nearly all, of the Foundation's roughly three-dozen employees. On information and belief, all but three Foundation employees will be terminated effective April 4. This means that, instead of the 60 days' notice normally given under Office of Personnel Management regulations, 5 C.F.R. § 351.801(a), Foundation employees were given only 30 days' notice. *Id.* ¶ 75. On March 7, Marocco appointed Dominic Bumbaca as President of the Foundation. *Id.* ¶ 69.

III. Plaintiffs and Other Grantees that Depend on Foundation Funding

Plaintiffs are nine of the more than 400 organizations whose grants were canceled by Defendants. Consistent with Congress's directive, each has "plan[ned], initiat[ed], assist[ed], finance[ed], administer[ed], and execut[ed] programs and projects designed to promote the achievement" of the Foundation's purposes. 22 U.S.C. § 290f(c). Among other things, plaintiffs work to address internal displacement driven by criminal gangs in El Salvador, Guatemala, and Honduras, Bullock Decl. ¶ 5; combat violence against women and in schools in Peru, Reátegui Decl. ¶¶ 3–5; extend credit to rural women in southern Mexico, Porta Decl. ¶ 3; and teach small farmers sustainable agricultural techniques to help increase their yields, Gámez Decl. ¶ 3. Each has had great success with Foundation funds. *See, e.g.*, Bullock Decl. ¶¶ 6–8; Reátegui Decl. ¶ 5; Ortiz Decl. ¶¶ 5–7; Chaux Decl. ¶ 5.

On March 4, 2025, each Plaintiff received a materially identical letter from Morocco informing them that their Foundation grants had been canceled. *See, e.g.*, Bullock Decl. ¶ 9, Ex. A. The letter stated that each Plaintiff's grant was "inconsistent with the agency's priorities." *Id.* It further stated that the "President's February 19, 2025 executive order mandates that the [Foundation] eliminate all non-statutorily required activities and functions." *Id.* It did not provide any other explanation. The letter also instructed Plaintiffs to send any remaining "unspent funds to the IAF, in accordance with the termination clause and local law, within fifteen (15) days or as soon as practicable." *Id.* And it told them to send a final programmatic and financial report to the Foundation by April 2, 2025. *Id.*

The termination of the Foundation's grants will cause each plaintiff grave harm. Several have already had to lay off staff and several are considering shutting down entirely. Other grantees are in similarly dire straits: According to an informal survey of approximately 148 grantees conducted over the last several weeks, more than 60 percent are at risk of closure due to the cancelation of Foundation funds. Ibarlucia Decl. ¶ 6, Ex. A.

LEGAL STANDARD

A plaintiff seeking preliminary injunctive relief must show "that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "The primary purpose of a preliminary injunction is to preserve ... the status quo." *Aamer v. Obama*, 742 F.3d 1023, 1043 (D.C. Cir. 2014) (internal quotation marks and citation omitted). When seeking such relief, "the movant has the burden to show that all four factors, taken together, weigh in favor of the injunction." *Abudllah v. Obama*, 753 F.3d 193, 197 (D.C. Cir. 2014) (quotation marks and citation omitted). These factors clearly weigh in Plaintiffs' favor.

ARGUMENT

I. Plaintiffs Are Likely to Succeed on the Merits of Their Claims

Defendants' hostile takeover and abrupt decimation of the Foundation exceed the Executive Branch's constitutional and statutory authority and violate the separation of powers. Defendants' impoundment of congressionally appropriated funds and cancelation of all the Foundation's contracts and grants also constitutes *ultra vires* actions taken without authority and unlawful action under the Administrative Procedure Act (APA). And Marocco's purported appointment to the Foundation Board violates the Federal Vacancies Reform Act (FVRA). Plaintiffs are likely to succeed on all claims.

A. Defendants' actions violate the separation of powers

The framers of the U.S. Constitution structured our federal government to ensure that a system of checks and balances curbs any impulses toward aggrandizement of power. "The declared purpose of separating and dividing the powers of government" between the legislative, executive, and judicial branches was "to diffuse[e] power the better to secure liberty." *Bomshier v. Synar*, 478 U.S. 714, 721 (1986) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (1952) (Jackson, J., concurring)).

Although the executive and legislative branches share authority in certain spheres, such as foreign affairs, *see Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 21 (2015), the framers granted Congress plenary control over federal spending. That control is effectuated in part by the Spending Clause, which provides: "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States." U.S. Const. art. I, § 8, cl. 1. The Constitution also grants the legislature the exclusive power to appropriate federal funds: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by

Law.” U.S. Const. art. I, § 9, cl. 7. The Spending and Appropriations Clauses, among other provisions, together operate to grant Congress exclusive power over the federal purse.

Alongside control over federal spending, the Constitution also vests in Congress the power to make law—*i.e.*, to legislate. U.S. Const. art. I, § 1. And although a sitting president can *veto* legislation presented to him, U.S. Const. art. I, § 7, cl. 2, he has no power to create federal law unilaterally, nor can he alter, modify, or rescind duly enacted legislation. In other words, the President’s power is limited to approving or rejecting in full legislation presented to him. *Clinton v. City of New York*, 524 U.S. 417, 439-40 (1998). And once legislation has been enacted as federal law, the Constitution charges the President with the affirmative duty to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3.

Defendants’ actions to shutter the Foundation flout these core separation-of-powers principles in numerous ways. Regardless how “unnecessary” the President may consider the Foundation to be, *see* Dismantling EO, the Foundation is an independent agency created by Congress and cannot be closed (either literally or functionally) by executive fiat. “Federal agencies are creatures of statute,” *J. Rotenberg Educ. Ctr., Inc. v. FDA*, 3 F.4th 390, 399 (D.C. Cir. 2021), and only Congress can abolish a federal agency or otherwise dictate (or reduce) its duties. This is true as a general matter of administrative and constitutional law, but has particular force here. Congress took the unusual step of confirming that, as a matter of federal law, the Foundation “shall have perpetual succession unless sooner dissolved by an Act of Congress.” 22 U.S.C. § 290f(e)(1).

Defendants have disregarded Congress’s directives and taken actions with the intent and effect of dismantling a federal agency created by Congress. These actions include, but are not limited to: usurping the power of the Foundation’s presidentially appointed and Senate-confirmed Board of Directors; purporting to install Defendant Marocco as sole member of the Board; firing its President and CEO; Marocco’s purporting to designate himself as President of the Foundation (and later to

designate Bumbaca as President); instituting a widescale RIF to terminate virtually all of the Foundation's employees within 30 days; terminating all of the Foundation's contracts and grants; and shuttering its website. By directing these actions, the President has violated his duties under the Take Care clause to faithfully execute laws passed by Congress. The President also has sought to unilaterally alter the Inter-American Foundation Act by gutting an agency that should exist "in perpetual succession." 22 U.S.C. § 290f(e)(1). "[T]here can be no liberty where the legislative and executive powers are united in the same person." *Bowsher*, 478 U.S. at 722 (quoting *The Federalist* No. 47, p. 325 (James Madison) (J. Cooke ed. 1961)). By carrying out the President's unlawful directives, Defendants have undertaken unconstitutional actions that this Court is empowered to enjoin.

It matters not that Defendants claim to have reduced the Foundation to its "minimum statutory presence" and thus have left in place one or two grants and two or three employees. *See* Compl. ¶¶ 51, 54, 69, 72. That is not a functioning agency and certainly does not permit the Foundation to fulfill its legislatively directed mission. *See* Compl. ¶¶ 2-3. As a practical matter, the Foundation currently is no longer functioning—a fact unchanged by Defendants' lip service to satisfying a statutory "minimum." The President (and his officers, on his direction) have "take[n] measures incompatible with the express or implied will of Congress," placing "at stake ... the equilibrium established by our constitutional system." *Youngstown*, 343 U.S. at 637 (Jackson, J., concurring). Such actions cannot stand.

In addition to their efforts to abolish the agency itself, Defendants have further violated the separation of powers by continuing to impound congressionally appropriated funds. In March of last year, Congress appropriated \$47 million in funding "to carry out the functions of" the Foundation "until September 30, 2025." Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, Div. F, tit. III, 138 Stat. 460, 746 (2024). Congress further instructed that funds could not be used to "implement a reorganization, redesign, or other plan" that would "expand, eliminate, consolidate, or

downsize” the Foundation (among others), unless the agency first consults with the Appropriations Committee in each chamber and “include[s] a detailed justification.” *Id.* § 7063(a), (b)(1), 138 Stat. at 843-44. And just days before this action was filed—even after Defendants’ unlawful actions to shutter the Foundation and freeze its funds—Congress *continued* to fund the Foundation’s activities. Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025). Defendants have defied these congressional directives to spend this appropriated funding in accordance with the Foundation’s mission. In so doing they have acted unilaterally to wrest control over Congress’s “exclusive power over the federal purse,” *U.S. Dep’t of Navy v. Fed. Lab. Rels. Auth.*, 665 F.3d 1339, 1346 (D.C. Cir. 2012) (Kavanaugh, J.) (citation omitted), by preventing the Foundation from accessing its appropriations and by canceling virtually all of its grants. Defendants’ impoundment of the Foundation’s funding violates “settled, bedrock principles of constitutional law” because “where previously appropriated money is available for an agency to perform a statutorily mandated activity, [there exists] no basis for a court to excuse the agency from that statutory mandate.” *In re Aiken Cnty.*, 725 F.3d 255, 259-60 (D.C. Cir. 2013) (Kavanaugh, J.); *see id.* at 257 (explaining that neither the President nor “subordinate executive agencies” may refuse to spend appropriated funds due to policy disagreements with the purposes set by Congress). Defendants are violating the separation of powers by aggrandizing to themselves Congress’s spending power.

As this Court is well aware, Defendants’ actions *vis-à-vis* the Foundation took place against the backdrop of other moves by the current administration to shutter agencies created by Congress and, in particular, to choke the flow of nearly all foreign-aid funding appropriated by Congress for expenditure by several agencies. Other courts reviewing separation-of-powers challenges to similar actions at other agencies have found likely constitutional violations, with one court in this district recently noting that “constitutional power over whether to spend foreign aid is not the President’s own—and it *is* Congress’s own.” *Aids Vaccine Advocacy Coal. v. U.S. Dep’t of State*, Nos. 25-00400, 2025

WL 752378, at *17 (D.D.C. Mar. 10, 2025).; *see id.* at *1, *17 (noting that Executive Branch has some discretion to “determine *how* appropriated funds are spent” but “Congress’s appropriations laws set the amount that is to be spent”); *see also Does 1–26 v. Musk*, No. 25-0462, 2025 WL 840574, at *23 (D. Md. Mar. 18, 2025) (“Where Congress has consistently reserved for itself the power to create and abolish federal agencies, [has] specifically established ... an agency by statute, and has not previously permitted actions taken toward a reorganization or elimination of the agency without first providing a detailed justification to Congress, Defendants’ actions taken to abolish or dismantle [the agency] are ‘incompatible with the express or implied will of Congress’”) (quoting *Youngstown*, 343 U.S. at 637 (Jackson, J., concurring)).

Because Plaintiffs are likely to succeed on their claim that Defendants’ actions to freeze the Foundation’s funding, terminate its contracts and grants, and shutter the agency violate core separation-of-powers principles, this Court should exercise its inherent equitable power to enjoin these unconstitutional actions. *See Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010).

B. Defendants’ actions to impound funds, terminate grants and contracts, and fire employees are *ultra vires*

Plaintiffs are equally likely to succeed on their claim that various actions taken to dismantle the Foundation and freeze its funding are *ultra vires* and thus null and void. “When an executive acts *ultra vires*, courts are normally available to reestablish the limits on his authority.” *Dart v. United States*, 848 F.2d 217, 224 (D.C. Cir. 1988).

1. Federal statutes prohibit Defendants’ impoundment of the Foundation’s funding

Taking the Foundation’s funding first, Congress has acted specifically to protect its constitutionally derived authority to control federal spending by enacting the Congressional Budget and Impoundment Control Act of 1974 (“Impoundment Act”), Pub. L. No. 93-344, Title X, 88 Stat. 332. The Impoundment Act confirms that the President lacks power to unilaterally refuse to spend congressionally appropriated funds. If a disagreement with spending priorities should arise, the

President may *propose* rescission of “all or part of any budget authority.” 2 U.S.C. § 683(a). But unless Congress “complete[s] action on a rescission bill rescinding all or part of the amount proposed” within 45 days, the funds “shall be made available for obligation.” *Id.* § 683(a), (b). Congress left no ambiguity surrounding its intent in enacting this legislation. A House committee report notes: “No matter how prudently Congress discharges its appropriations responsibility, legislative decisions have no meaning if they can be unilaterally abrogated by executive impoundments.” H.R. Rep. No. 93-658, at 16 (1973).

Closely related to the Impoundment Act is the Anti-Deficiency Act, Pub. L. No. 97-258, 96 Stat. 877 (1982). Government officials or agencies violate that statute if they establish any funding reserve by withholding appropriated funds from a congressionally assigned program, except for certain limited exceptions. *See* 31 U.S.C. §§ 1301(a), 1512(c)(1). In apportioning or reapportioning an appropriation, “a reserve may be established only—(A) to provide for contingencies; (B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (C) as specifically provided by law.” *Id.* § 1512(c)(1). Funds appropriated by Congress may not be placed in a reserve for any other purpose.

Defendants’ actions to freeze the Foundation’s access to its appropriated funding, and to cancel all or virtually all of its contracts and grants, violate both the Impoundment Act and the Anti-Deficiency Act. On information and belief, neither the President nor his subordinate officers have proposed the rescission of the budget authority covering the Foundation’s appropriations. And Congress certainly has not acted to rescind any such funding; on the contrary, Congress acted only last week to *continue* the Foundation’s funding. *See* Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025). Defendants’ unlawful retention of the Foundation’s funds and refusal to honor previously approved contracts and grants likewise create a funding reserve that runs afoul of the Anti-Deficiency Act. “[T]he President’s duty to enforce the laws necessarily extends to appropriations ... meaning that failure to act may be an abdication of the

President’s constitutional role.” *City and Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1234 (9th Cir. 2018). No part of the U.S. Constitution, statute, or other source of law authorizes Defendants to impound the Foundation’s funding; on the contrary, the Impoundment and Anti-Deficiency Acts, as well as the relevant in-effect appropriations statutes, obligate Defendants to allow the Foundation to access and disburse its congressionally appropriated funds. Defendants’ actions are *ultra vires*. *See also Aids Vaccine Advocacy Coalition*, 2025 WL 752378, at *15–*16 (rejecting claim that the President has the authority to impound foreign aid funds).

2. *Marocco’s appointment to the Board, and all actions he took thereafter, are invalid*

In addition, all actions taken by Defendant Peter Marocco are likewise *ultra vires* because Marocco at no point has lawfully exercised power over the Foundation or its officers. As explained above, the Inter-American Foundation Act requires that the nine members of the Board of Directors be presidentially appointed and Senate confirmed. 22 U.S.C. § 290f(g). It also outlines precise characteristics governing the composition of the Board. *Id.* § 290f(i). Only the duly appointed “Board shall direct the exercise of all the powers of the Foundation,” *id.*, including the power to appoint its president and chief executive officer, *id.* § 290f(j). The Act does not contemplate the ability for a Board member to serve in an acting capacity or otherwise to exercise powers of the Board without investiture through the advice-and-consent process.

The FVRA, 5 U.S.C. §§ 3345-3349e, grants President Trump, in limited circumstances, the authority to appoint acting officers to temporarily fill vacant positions that otherwise require Senate confirmation. The FVRA provides “the exclusive means for temporarily authorizing an acting official to perform the functions and duties of *any office* of an Executive agency ... for which appointment is required to be made by the President, by and with the advice and consent of the Senate,” absent narrow exceptions inapplicable here. 5 U.S.C. § 3347(a) (emphasis added). The FVRA explicitly controls who may serve as “an officer of an Executive agency” requiring advice and consent if the

occupant “dies, resigns, or is otherwise unable to perform the functions and duties of the office,” *id.* § 3345, as well as how long such an officer may serve in a temporary capacity, *id.* § 3346. If an office requiring Senate confirmation becomes vacant, “[u]nless an officer or employee is performing the functions and duties in accordance with” the FVRA, “*the office shall remain vacant.*” *Id.* § 3348(b)(1). Congress intended the FVRA to have teeth: It specifies that, in any case where a person purports to “perform[] any function or duty of a vacant office” but did not satisfy the FVRA’s strict requirements, any “action taken” by that official “shall have no force and effect.” *Id.* § 3348(d)(1). Courts repeatedly have set aside agency actions taken by individuals whose service violated the FVRA. *See, e.g., NLRB v. Sw. Gen., Inc.*, 580 U.S. 288, 309 (2017); *Asylumworks v. Mayorkas*, 590 F. Supp. 3d 11, 21-22 (D.D.C. 2022) (invalidating final rules issued during tenure of improperly-appointed acting Secretary).

Critically for the present case, the FVRA prohibits service on the Board in an acting capacity. It states explicitly that “Sections 3345 through 3349b,” *i.e.*, the provisions governing temporary service, “shall not apply to—(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—(A) is composed of multiple members; and (B) governs an independent establishment or Government corporation.” 5 U.S.C. § 3349c. By exempting Boards like the Foundation’s from the FVRA altogether, Congress has made clear that the President may not “temporarily authoriz[e] an acting official to perform the functions and duties” of the Board. *Id.* § 3347(a). When a member of the Foundation’s Board is “unable to perform the functions and duties of the office,” the office “shall remain vacant.” *Id.* § 3348(b)(1).

This result is unsurprising; as it has in other respects (such as requirements respecting political composition), Congress chose to protect the independence of multi-member boards, like the Foundation’s Board, by prohibiting service on such a body in a temporary capacity. By requiring that members of an independent, multi-member board be appointed by the President and confirmed by the Senate before exercising any executive power, Congress sought to prevent just the type of

machinations that occurred at the Foundation. Peter Marocco was never appointed by the President to serve as a member of the Foundation’s Board and was never confirmed (nor considered) by the Senate to serve in that role. He thus has never lawfully exercised any power granted by statute to the Foundation’s Board. Any actions he purported to take in his capacity as an acting member of the Board, including to self-designate as president and CEO, “shall have no force and effect.” *Id.* § 3348(d)(1).

And if there were any doubt, the FVRA’s legislative history resolves it. The Senate Report accompanying an early version of the FVRA explained that, in adopting § 3349c, Congress intended to preserve the then-status quo with respect to whether the President could make acting appointments to the positions listed in that section. Congress’s view was that it had “always been the case” that the (then-existing) Vacancies Act did not apply to such positions, and wanted to “avoid any confusion that might result from the enactment of a replacement statute on this point.” S. Rep. No. 105-250, at 22 (1998). Moreover, Congress indicated that—at least in its view—the President does not have the authority to appoint acting officers unless Congress has granted such authority: “[T]he President lacks any inherent appointment authority for government officers.” *Id.* at 5. It was also Congress’s view that “[t]he President’s power to take care that the laws shall be enforced is a duty, and not a source of power”—and that absent “affirmative statutory authority to fill a vacancy, the office must remain vacant.” *Id.* Thus, in seeking to preserve what had “always been the case” with respect to officers of entities like the Board, Congress meant to preclude the President from making any acting appointments to them.¹

¹ Defendants may seek to rely on a newly issued memorandum from DOJ’s Office of Legal Counsel opining that the President validly appointed Marocco as an acting Board member of both the Foundation and its sister agency, the African Development Agency. *See* Temporary Presidential Designation of Acting Board Members of the Inter-American Foundation and the United States African Development Foundation, 49 Op. O.L.C. ___, at *6–*7 (Mar. 14, 2025). OLC opinions are not binding on the Court. *Ctr. for Biological Diversity v. U.S. Int’l Dev. Fin. Corp.*, 77 F.4th 679, 689 (D.C.

Even were the Court to conclude that the FVRA posed no barrier to the President making an acting appointment to the Board, the Appointments Clause still would prohibit such action. That clause requires the President to obtain “the Advice and Consent of the Senate” before appointing “Officers of the United States.” U.S. Const. art. II, § 2, cl. 2. The Senate’s “advice and consent power is a critical structural safeguard of the constitutional scheme.” *SW Gen., Inc.*, 580 U.S. at 293 (cleaned up). “The Framers envisioned it as ‘an excellent check upon a spirit of favoritism in the President’ and a guard against ‘the appointment of unfit characters from family connection, from personal attachment, or from a view to popularity.’” *Id.* (quoting *The Federalist* No. 76, p. 457 (Alexander Hamilton) (Clinton Rossiter ed. 1961)) (alteration omitted). And while *Congress* has given the President “limited authority to appoint acting officials to temporarily perform the functions” of vacant advice-and-consent offices since the founding, *id.*, it does not follow that the President has inherent authority under the Take Care Clause to make acting appointments when Congress does not provide for them. Any other understanding of the Appointments Clause would deprive the Senate of one of its most important checks on executive power. *See Sw. Gen.*, 580 U.S. at 293. Because Marocco has not been validly installed as a member (much less as Chair) of the Foundation’s Board, actions he purported to take in that capacity are void *ab initio* as taken in the absence of any statutory authority. *See* 5 U.S.C. § 3348(d)(1). In particular, Marocco’s attempt to designate himself as president and CEO of the Foundation during the hasty Board meeting he purported to hold in the Foundation’s lobby is without effect. And since Marocco has not at any time lawfully exercised power as President of the Foundation,

Cir. 2023). OLC’s opinion is unpersuasive in any event. OLC reads § 3349c’s instruction that the FVRA “shall not apply” to multi-member boards as *including* § 3347’s directive that the FVRA is the exclusive means by which officers may serve in an acting capacity—in other words, it views the provisions to be in tension such that the FVRA has no applicability to multi-member boards, rather than as operating to prevent temporary service. This reasoning is circular and creates surplusage, because § 3348(d)(1)’s command that actions taken “in performance of any function or duty of a vacant office ... shall have no force or effect” specifically includes and cross-references § 3349c, the multi-member Board provision.

actions he took in that capacity likewise are void. In particular, Morocco's unilateral actions to cancel all of the Foundation's contracts and grants, including Plaintiffs' grants, are *ultra vires* and without legal effect. Morocco also lacked authority to terminate all of the Foundation's staff through a RIF.

C. Defendants' impoundment of the Foundation's funding, and cancelation of all of its contracts and grants, violates the APA

Plaintiffs are also likely to succeed on each of their three APA claims.

1. *Defendants' mass cancelation of contracts and grants is arbitrary and capricious*

The APA instructs courts to "hold unlawful and set aside agency action, findings, and conclusions found to be ... arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with law." 5 U.S.C. § 706(2)(A). Review under this provision is available only for final agency action. "Agency action" encompasses an agency's "denial" of "recognition" to a "claim" or "right"; the "denial" of a "grant of money"; and the "failure to act" or "withholding" with respect to claims, rights, and grants of money. *Id.* § 551(10), (11), (13). Agency action is "final" for purposes of APA review if it "mark[s] the consummation of the agency's decisionmaking process," rather than "be[ing] of a merely tentative or interlocutory nature," and if the decision is "one by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (internal quotation marks and citations omitted).

Defendants' cancelation of the Foundation's contracts and grants is final agency action. It plainly marks the completion of agency decisionmaking, since Defendants have deemed the Foundation "unnecessary," Dismantling EO, and determined to eviscerate it to the maximum extent that, in *their* view, is permissible by law. The decision to cancel grants and contracts *en masse* also is a decision from which rights and obligations are determined and which "give rise to 'direct and appreciable legal consequences,'" *U.S. Army Corps of Eng'rs v. Hawkes Co., Inc.*, 578 U.S. 590, 598 (2016) (citation omitted). Plaintiffs now face the consequence of not only losing access to immediate sources of grant funding, but also face the prospect of losing the return on their own investments, the potential

collapse of vital projects, and the ability to work with the Foundation as a trusted partner in improving their communities through effective development processes. This is reviewable agency action.

Defendants’ decision to unilaterally cancel all of the Foundation’s grants and contracts is arbitrary and capricious. To survive arbitrary-and-capricious review, an agency must demonstrate that it “has reasonably considered the relevant issues and reasonably explained its decision.” *Fed. Commc’ns Comm’n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). An agency must provide a “satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation marks omitted). And the APA demands that, prior to upending longstanding policies that have engendered reliance interests, agencies must acknowledge their change in course and explain the reasons for doing so. *Fed. Commc’ns Comm’n v. Fox Television*, 556 U.S. 502, 515 (2009); *U.S. Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 30–31 (2020).

Defendants made no attempt to comply with these minimum requirements. There is no indication that Defendants engaged in any considered approach or attempted to set forth a contemporaneous memorandum articulating a rationale for their decision to engage in blanket cancellations. Defendants did not purport to investigate the Foundation’s grants and contracts to determine whether and, if so, which should be cancelled—or even to ascertain what projects these grants and contracts funded. Defendants likewise did not consider the lawfulness of these blanket cancellations under the Further Consolidated Appropriations Act of 2024 or the Impoundment and Anti-Deficiency Acts. Instead, the only contemporaneous records Defendants have produced are form emails to Plaintiffs stating the unreasoned conclusion that their grants suddenly were inconsistent with administration priorities and that the President had directed the Foundation to eliminate all non-statutorily required functions. This is the antithesis of a considered decision.

Defendants took no account of Plaintiffs’ and their communities’ reliance on the projects funded by Foundation grants and contracts. *See Regents of the Univ. of Calif.*, 591 U.S. at 30–31. They also failed to consider the broader impacts of abruptly ceasing hundreds of programs aimed at easing the factors driving mass migration in the Western hemisphere. *See* Compl. ¶¶ 2-4. Defendants made no effort to proffer a “reasoned explanation ... for disregarding facts or circumstances that underlay or were engendered by the prior policy,” or even to assess whether “there are good reasons for the new policy,” *Fox Television*, 556 U.S. at 515-16.

These failures are arbitrary and capricious.

2. *Defendants’ denial of funding is contrary to law*

The APA also instructs that a reviewing court “shall” “hold unlawful and set aside agency action” found to be “not in accordance with law” or “in excess of statutory jurisdiction.” 5 U.S.C. § 706(2)(A), (C). Defendants’ blanket denial of access to congressionally appropriated funding is contrary to law and in excess of statutory jurisdiction. The Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, Div. F, tit. III, 138 Stat. 460, 746 (2024), and the newly enacted Continuing Resolution, 2025, Pub. L. No. 119-4, § 1101(a)(11) (2025), create on the part of Defendant Department of Treasury a mandatory, nondiscretionary duty to make available and disburse the Foundation’s funds as needed for it to carry out its legislatively directed mission. Treasury has no discretion as to whether it will allow the Foundation access to its congressionally appropriated funds. The Court should hold unlawful Defendants’ blanket denial of funding.

3. *This Court should compel agency action unlawfully withheld and unreasonably delayed*

Finally, the APA instructs that a court “shall” “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1). This provision operates in a manner similar to a mandamus action by allowing courts to order agencies to comply with mandatory, nondiscretionary duties for which action has been unlawfully refused or delayed. Defendant Department of the Treasury has a

mandatory, nondiscretionary duty to disburse funds in its care upon a lawfully presented disbursement request from a Foundation employee with delegated authority over Foundation funding. In performing this role, Treasury essentially acts as the Foundation’s “bank” and lacks authority to refuse payments or cancel its grants and contracts. Treasury has refused to fulfill that mandatory duty by impounding the Foundation’s funds and unilaterally canceling its contracts. This Court should compel the Treasury Department to fulfill its mandatory duty to disburse the Foundation’s funding.

II. Plaintiffs Are Suffering Irreparable Harm from Defendants’ Actions

Plaintiffs are suffering irreparable harm due to Defendants’ illegal efforts to shut the Foundation down—harm that threatens the very existence of several of them. Defendants’ actions have also significantly impaired each Plaintiff’s ability to accomplish its primary mission. These harms mirror those that courts across the country have recognized as irreparable when granting preliminary relief in cases involving the Executive Branch’s recent efforts to illegally terminate or impound congressionally appropriated funds. *See, e.g., Nat’l Council of Nonprofits v. OMB*, No. 25-239, 2025 WL 597959, at *18 (D.D.C. Feb. 25, 2025) (actions that “threaten the very existence of [plaintiffs]’ business” constitute irreparable harm) (quoting *Wis. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985) (per curiam) (brackets omitted); *Aids Vaccine Advocacy Coalition*, 2025 WL 752378, at *18–*20 (actions that “make it more difficult for the plaintiffs to accomplish their primary mission” demonstrate irreparable harm) (quoting *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2019) (brackets omitted); *see also New York v. Trump*, No. 25-cv-39, 2025 WL 715621, at *13 (D.R.I. Mar. 6, 2025); (similar); *Pacito v. Trump*, No. 2:25-cv-255, 2025 WL 655075, at *22–*23 (W.D. Wash. Feb. 28, 2025) (similar).

For example, plaintiff Coprocaminos may have to close its doors as a result of the loss of Foundation funds. Chaux Decl. ¶¶ 8–9. Coprocaminos is the first community-led technical college in southwestern Colombia. *Id.* ¶ 2. The Colombian Ministry of Education accredited it in 2019. *Id.*

Coprocaminos has used Foundation funds to pay for physical and technological infrastructure, books, and computers. *Id.* ¶ 5. Foundation funding has also been used to help bring two of Corpocaminos’s academic programs into compliance with the Ministry’s standards. *Id.* Graduates have gone on to work in tourism, at restaurants, and agroecology. *Id.* Under Colombian law, when a new institution like Corpocaminos is established, it must receive a certain portion of its financing from sources other than tuition fees. *Id.* ¶ 8. Corpocaminos had identified Foundation funds as one of these sources, and without them, it may lose its accreditation. *Id.*

Other plaintiffs face a similarly existential threat. Plaintiff Acción Cultural Popular Hondureña (“ACPH”) is owed more than \$100,000 under the terms of its grant. Zepeda Decl. ¶ 10. Foundation funds represent 70 percent of ACPH’s overall budget. *Id.* ¶ 11. As a result of the abrupt cancelation of funds, it has been forced to lay off all of its staff that worked in Valle de Sula, one of the most important regions in which ACPH operates. *Id.* It will be forced to suspend its youth skills training program, which has successfully trained nearly 600 people for jobs in a diverse array of industries, including electrical technicians, graphic designers, cell phone repair and computer scientists, and whose graduates have gone on to successfully establish their own businesses and secure employment. *Id.* ¶¶ 6, 12. The end of Foundation funds will also severely hamper ACPH’s ability to help communities prepare for, and respond to, natural disasters, including hurricanes and flooding from the Ulúa and Chamelecón rivers. *Id.* ¶¶ 8, 13. And it will impair its ability to leverage funds from other sources, including philanthropic foundations and the city of El Progreso. *Id.* ¶ 7.

Plaintiff Escuela de Integración, Formación Deportiva, Expresión Artística y Desarrollo Laboral (“EIFODEC”) will have to shut down its Building an Inclusive World project. Mendoza Decl. ¶ 7. Under this program, EIFODEC has trained 120 children and youth with disabilities, teaching them occupational and daily-life skills. *Id.* ¶ 3. It also trained nearly 250 families of persons with disabilities on how to care for, and support the independence of, their loved ones. *Id.* It had planned

to award small grants to 23 students to start their own businesses. *Id.* The cancelation of Foundation funds will force EIFODEC to end this project and lay off its staff. *Id.* ¶¶ 6–7.

And the list goes on. Plaintiff Sociedad Cooperativa Las Mujeres Rurales de la Frontera Sur is still owed more than \$225,000 of the \$237,780 guaranteed under its grant agreement. Porta Decl. ¶ 5. It has had to lay off seven employees as a result of these funds being cut off. *Id.* Las Mujeres Rurales will also be unable to extend credit to 600 women in rural Mexico, money they would have used to start their own businesses. *Id.* Plaintiff Asociación Instituto Salvadoreño de Educación Cooperativa y Agricultura Orgánica will be unable to continue and expand its agricultural training program, under which it has taught 245 small family farms sustainable agricultural techniques that enabled them to nearly double the size of their farms on average. Gámez Decl. ¶¶ 3, 4, 6. Plaintiff Fundación Renace will be unable to continue helping several small business associations prepare bids for government contracts, affecting the food security and economic livelihood of more than 1,000 people. Chavez Decl. ¶ 4. Plaintiff Cristosal will be unable to continue providing essential legal, humanitarian, and mental-health services to 372 individuals. Bullock Decl. ¶ 12. Indeed, it has already spent nearly \$75,000 of other funds to cover expenses incurred under the terms of its grant. *Id.* ¶ 10. Plaintiff Alternativas y Capacidades will have to shut down its Social Laboratory for Youth-led Initiatives program, which is in the midst of training 40 young leaders on the Yucatán Peninsula and helping them start community-led social projects. Ortiz Decl. ¶¶ 6, 10, 11. It will also be unable to offer these leaders seed funding for that purpose, money that would have been used to leverage funds from elsewhere. *Id.* ¶ 10.

These are just a few examples of the widespread harm that Defendants have inflicted on Foundation grantees. Indeed, according to an informal poll of approximately 148 grantees (about 35 percent of all Foundation grantees) conducted over the last several weeks, more than 65.5 percent are at risk of closure due to the cancelation of Foundation funds. Ibarlucia Decl. ¶ 6, Ex. A. On average,

Foundation funds make up 50 percent of these grantees' budgets. *Id.* For 44 percent of respondents, Foundation funds account for at least 70 percent of their budget. *Id.* Collectively, these organizations will lose more than \$14 million in Foundation funds. *Id.* The termination of Foundation funds also puts at risk an additional \$13.5 million that these organizations secured from other sources. *Id.* And it will impact more than 85,000 beneficiaries of just these 148 organizations.

Nor are Plaintiffs' harms limited to the loss of awarded funds. Several were in the midst of negotiating extensions of their grant agreements or planned to do so in the near future. For example, while Plaintiff Asociación Las Pregoneras had received all the funds owed to it under the terms of its grant, it was in the process of negotiating a two-year, \$267,000 extension. Reátegui Decl. ¶ 7. The only step left before March 4 was for the Foundation's President to sign the agreement. *Id.* Without these funds, Pregoneras will have to lay off staff. *Id.* ¶ 8. And it will be unable to continue its work combatting violence against women and children in Peru, an effort in which it has had great success: schools Pregoneras worked in saw a 13-percent drop in violence over the past two years. *Id.* ¶¶ 5, 8. Similarly, based on its past experience, Plaintiff Cristosal had anticipated applying for additional funds. Bullock Decl. ¶ 11. Indeed, it was in the process of applying for a supplemental grant agreement that would have allowed it to continue providing services for an additional two years. *Id.*

Plaintiffs also face the loss of significant non-monetary benefits. Several Plaintiffs participated in Foundation-sponsored exchanges, allowing them to learn best practices from organizations with similar missions throughout Latin America. *See, e.g.,* Reátegui Decl. ¶ 9; Ortiz Decl. ¶ 12. In addition, Foundation staff has provided critical technical support and advice, helping to improve Plaintiffs' monitoring systems and strategies. *See, e.g.,* Bullock Decl. ¶ 13. Auditors contracted by the Foundation have also provided Plaintiffs with accounting, documentation, and legal compliance assistance. *E.g., id.* These services have been critical to Plaintiffs' growth and have enabled them to access additional funding from other sources. *See id.; see also* Ortiz Decl. ¶ 13; Reátegui Decl. ¶ 10; Chavez Decl. ¶ 5;

Zepeda Decl. ¶ 14; Porta Decl. ¶ 6; Chaux Decl. ¶ 11; Mendoza Decl. ¶ 9; Gámez Decl. ¶ 9. Defendants’ illegal dissolution of the Foundation will permanently deprive Plaintiffs of these valuable resources.

These harms plainly warrant preliminary injunctive relief. As one district court recently observed, “[i]t is so obvious that it almost need not be stated that when money is obligated and therefore expected ... and is not paid as promised, harm follows—debt is incurred, debt is unpaid, essential health and safety services stop, and budgets are upended.” *New York*, 2025 WL 715621, at *13. And where, as here, “there is no end in sight to the Defendants’ funding freeze, that harm is amplified because those served by the expected but frozen funds have no idea when the promised monies will flow again.” *Id.*

III. The Balance of Equities and Public Interest Favor Plaintiffs’ Request for a Preliminary Injunction

The final two factors—balancing the equities and the public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009); *see also Pursuing Am.’s Greatness v. Fed. Election Comm’n*, 831 F.3d 500, 511 (D.C. Cir. 2016). Here, both strongly support granting a preliminary injunction. As the D.C. Circuit has explained, “[t]here is generally no public interest in the perpetuation of unlawful agency action.” *League of Women Voters*, 838 F.3d at 12. “To the contrary, there is substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operation.” *Id.* (quotation marks and citation omitted). That is especially true where an agency’s actions are not merely unlawful but unconstitutional. *See Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013) (“[E]nforcement of an unconstitutional law is always contrary to the public interest.”). Conversely, the “Government cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required.” *Ramirez v. U.S. Immigr. & Customs Enft.*, 568 F. Supp. 3d 10, 34 (D.D.C. 2021) (cleaned up). These principles apply with full force here, as Plaintiffs seek an order requiring Defendants to cease their unlawful—and unconstitutional—

cancellation of grants and contracts; efforts to withhold funds already due; efforts to fire Foundation employees; and the unlawful exercise of executive authority by an official unauthorized to wield it.

In addition to the obvious public interest in having the Executive Branch follow the law, there are compelling practical reasons for granting a preliminary injunction. Since 1969, the Foundation has steadfastly worked to accomplish its congressionally mandated purposes: supporting self-help efforts and increasing opportunities for people throughout Latin America; strengthening the bonds of friendship and understanding among the peoples of the Western Hemisphere; and encouraging the establishment and growth of democratic institutions. *See* 22 U.S.C. § 290f(b). Over the past half century, it has successfully invested hundreds of millions of dollars to address key regional challenges, including violence, natural disasters, and economic instability. *See* Compl. ¶¶ 2–3. Plaintiffs work to counteract these forces, many of which increase the incentives for populations to migrate—including to the United States. *See, e.g.,* Reátegui Decl. ¶ 8; Zepeda Decl. ¶¶ 12–13; Chaux Decl. ¶ 10. And they have been successful: For example, in a study of 400 cases of internally displaced persons that received assistance from Plaintiff Cristosal, *none* migrated, and the intent to migrate among beneficiaries decreased by 60 percent after six months of assistance. Bullock Decl. ¶ 8.

Like the irreparable harm analysis, these considerations are the same as those that courts nationwide have relied on when granting preliminary relief to parties harmed by the Executive Branch’s recent attempts to cut off agency funds. *See, e.g., Nat’l Council of Nonprofits*, 2025 WL 597959, at *19; *Aids Vaccine Advocacy Coalition*, 2025 WL 752378, at *21; *New York*, 2025 WL 715621, at *15–*16; *Pacito*, 2025 WL 655075, at *24. It is manifestly in the public interest to restore the proper balance of power between Congress and the Executive; to alleviate poverty, violence, and the impacts of natural disasters; and to halt the Executive Branch’s illegal effort to withhold funds to which the grantees are entitled.

IV. The Court Should Enjoin Defendants from Taking Further Action to Dismantle the Inter-American Foundation

Plaintiffs have established that they are likely to succeed on the merits; that Defendants' actions are irreparably harming them; and that the balance of the equities weighs strongly in favor of granting preliminary relief. And their harms will only be remedied by granting the relief requested here: (1) an order enjoining all Defendants from freezing, pausing, or otherwise preventing the disbursement of funds obligated under the terms of grant agreements and contracts entered into by the Inter-American Foundation that were in effect as of February 28, 2025; (2) an order enjoining all Defendants from continuing to keep Inter-American Foundation employees on administrative leave and from implementing or otherwise giving effect to a RIF with respect to those employees; (3) an order enjoining all Defendants to pay any grant and contract funds unlawfully withheld since February 28, 2025, and to return any funds sent by grantees back to the federal government under the terms of the March 4 letter; and (4) an order enjoining Defendant Peter Marocco, and any purported successors to him, from purporting to exercise the authority of the Inter-American Foundation Board or its President unless a Board member shall be installed through the statutorily required advice-and-consent process, 22 U.S.C. § 290f(g), and thereby designates a new President. As detailed above, each passing day without Foundation funds injures plaintiffs, forcing them to make difficult decisions about whether to lay off staff, how deeply to cut services, and whether to shut down entirely. Requiring Defendants to honor the terms of the Foundation's grants and contracts is the only way to prevent further irreparable harm. Similarly, Plaintiffs rely heavily on Foundation staff and contractors for a wide variety of support—support crucial to their ongoing success. It is self-evident that the Foundation cannot function as Congress intended without a staff to perform its operations. Only by preventing the RIFs from taking place and returning employees to their positions can Plaintiffs' harms be remedied.

Plaintiffs are aware that, in a separate case challenging Defendants' attempt to fire Aviel,

Defendants have agreed not to require Plaintiffs and other grantees to return funds already allocated until that court hears argument on Aviel's emergency motion. *See Aviel v. Gor*, No. 1:25-cv-778, Minute Entry for Status Conference (D.D.C. Mar. 19, 2025). Plaintiffs also understand that a briefing schedule has been set in that case that would allow the court to issue a decision before the April 4, 2025, RIFs are scheduled to take place. *See id.* Minute Order (Mar. 19, 2025). Plaintiffs respectfully request a similar briefing schedule in this case, under which Defendants would file their opposition to this motion for a preliminary injunction by Friday, March 28, and Plaintiffs would file their reply by Tuesday, April 1. Plaintiffs further respectfully request that the Court may wish to hold a hearing in this matter on a similar timeframe as the hearing set in the *Aviel* matter.

CONCLUSION

This Court should grant Plaintiffs' motion for a preliminary injunction.

March 21, 2025

Respectfully submitted,

/s/ Gregory Briker

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**Pro hac vice application forthcoming. DC Bar application pending, practice pursuant to Rule 49(c)(8), DC Courts, and supervised by DC Bar member.*

†Application for DDC Admission forthcoming

CERTIFICATE OF SERVICE

I hereby certify that, on March 21, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. There is currently no Counsel of Record for Defendants. I certify that I will serve the foregoing on Defendants.

/s/ Gregory Briker
Gregory Briker