

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK; STATE OF CALIFORNIA; STATE OF ILLINOIS; STATE OF RHODE ISLAND; STATE OF NEW JERSEY; COMMONWEALTH OF MASSACHUSETTS; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; STATE OF HAWAI'I; STATE OF MAINE; STATE OF MARYLAND; STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NORTH CAROLINA; STATE OF NEW MEXICO; STATE OF OREGON; STATE OF VERMONT STATE OF WASHINGTON; STATE OF WISCONSIN,

Plaintiffs,

v.

DONALD TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; U.S. OFFICE OF MANAGEMENT AND BUDGET; MATTHEW J. VAETH, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF THE U.S. OFFICE OF MANAGEMENT AND BUDGET; U.S. DEPARTMENT OF THE TREASURY; SCOTT BESENT, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE TREASURY; PATRICIA COLLINS IN HER OFFICIAL CAPACITY AS TREASURER OF THE U.S.; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; DOROTHY A. FINK, M.D., IN HER OFFICIAL CAPACITY AS ACTING SECRETARY OF HEALTH AND HUMAN SERVICES; U.S. DEPARTMENT OF EDUCATION; DENISE CARTER, IN HER OFFICIAL CAPACITY AS ACTING SECRETARY OF EDUCATION; U.S. FEDERAL EMERGENCY MANAGEMENT AGENCY; CAMERON HAMILTON, IN HIS OFFICIAL CAPACITY AS ACTING ADMINISTRATOR OF THE U.S. FEDERAL EMERGENCY MANAGEMENT

C.A. No. 1:25-cv-00039-JJM-PAS

AGENCY; U.S. DEPARTMENT OF
TRANSPORTATION;
JUDITH KALETA, IN HER OFFICIAL
CAPACITY AS ACTING SECRETARY OF
TRANSPORTATION;
U.S. DEPARTMENT OF LABOR; VINCE
MICONE, IN HIS OFFICIAL CAPACITY AS
ACTING SECRETARY OF LABOR; U.S.
DEPARTMENT OF ENERGY; INGRID KOLB, IN
HER OFFICIAL CAPACITY AS ACTING
SECRETARY OF THE U.S. DEPARTMENT OF
ENERGY; U.S. ENVIRONMENTAL
PROTECTION AGENCY; JAMES PAYNE, IN HIS
OFFICIAL CAPACITY AS ACTING
ADMINISTRATOR OF THE U.S.
ENVIRONMENTAL PROTECTION AGENCY;
U.S. DEPARTMENT OF HOMELAND
SECURITY; KRISTI NOEM, IN HER CAPACITY
AS SECRETARY OF THE U.S. DEPARTMENT
OF HOMELAND SECURITY; U.S.
DEPARTMENT OF JUSTICE; JAMES R.
McHENRY III, IN HIS OFFICIAL CAPACITY AS
ACTING ATTORNEY GENERAL OF THE U.S.
DEPARTMENT OF JUSTICE; THE NATIONAL
SCIENCE FOUNDATION and DR.
SETHURAMAN PANCHANATHAN, IN HIS
CAPACITY AS DIRECTOR OF THE NATIONAL
SCIENCE FOUNDATION,

Defendants.

**MOTION TO SUPPLEMENT THE RECORD ON PLAINTIFFS' REQUEST FOR
EMERGENCY TEMPORARY RESTRAINING ORDER UNDER FEDERAL RULE OF
CIVIL PROCEDURE 65(B)**

Plaintiffs in the above-captioned action hereby request the Court to permit them to supplement the record on their Request for Emergency Temporary Restraining Order Under Federal Rule of Civil Procedure filed January 28, 2025 (Doc. 3) with additional facts as set forth in the accompanying Affirmation of Kenneth J. Sugarman, which relate to federal government

communications post-dating the rescission of the OMB Directive. These additional facts are relevant to the Court's determination of the appropriate content for the temporary restraining order to be entered in the case at this time (as well as additional evidence of the ongoing need for the restraining order). *See* Minute Entry for proceedings held before Chief Judge John J. McConnell, Jr.: Hearing via Zoom held on 1/29/2025, filed Jan. 29, 2025 (ordering Plaintiffs/States to prepare a proposed order); [Proposed] Temporary Restraining Order submitted by Plaintiffs, filed Jan. 30, 2025 (Doc. 46).

January 30, 2025

Respectfully submitted,

LETITIA JAMES

Attorney General of the State of New York

By: /s/ Rabia Muqaddam

Rabia Muqaddam*

Special Counsel for Federal Initiatives

Molly Thomas-Jensen*

Zoe Levine*

28 Liberty Street

New York, NY 10005

(212) 416-8883

ROB BONTA

Attorney General of the State of California

MICHAEL L. NEWMAN*

THOMAS PATTERSON*

Senior Assistant Attorneys General

CHRISTINE CHUANG*

LARA HADDAD*

Supervising Deputy Attorneys General

/s/ Laura L. Faer

LAURA L. Faer

Supervising Deputy Attorney General

NICHOLAS GREEN*

CARLY MUNSON*

KENNETH SUGARMAN*
CHRISTOPHER KISSEL*
Deputy Attorneys General
California Attorney General's Office
1515 Clay St.
Oakland, CA 94612
(510) 879-3304
laura.faer@doj.ca.gov

KWAME RAOUL
ATTORNEY GENERAL STATE OF ILLINOIS

By: /s/ Alex Hemmer
Alex Hemmer*
Deputy Solicitor General
Office of the Illinois Attorney General
115 S. LaSalle St.
Chicago, IL 60603
(312) 814-5526
alex.hemmer@ilag.gov

Counsel for the State of Illinois

PETER F. NERONHA
ATTORNEY GENERAL OF RHODE ISLAND

/s/ Kathryn M. Sabatini
Kathryn M. Sabatini (RI Bar No. 8486)
Civil Division Chief
Special Assistant Attorney General

/s/ Sarah W. Rice
Sarah W. Rice (R.I. Bar No. 10465)
Deputy Chief, Public Protection Bureau
Assistant Attorney General
Rhode Island Office of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400, Ext. 2054
srice@riag.ri.gov

Counsel for the State of Rhode Island

Matthew J. Platkin

Attorney General of New Jersey

/s/ Angela Cai

Angela Cai*

Executive Assistant Attorney General

Jeremy M. Feigenbaum*

Solicitor General

Shankar Duraiswamy*

Deputy Solicitor General

Office of the Attorney General

25 Market Street

Trenton, NJ 08625

609) 376-3377

Angela.Cai@njoag.gov

Counsel for the State of New Jersey

Andrea Joy Campbell

Attorney General of Massachusetts

/s/ Katherine Dirks

Katherine Dirks *

Deputy Chief, Government Bureau

Office of the Attorney General

One Ashburton Place, 20th Floor

Boston, MA 02108

(617) 963-2277

katherine.dirks@mass.gov

KRIS MAYES

Attorney General of Arizona

s/ Joshua D. Bendor

Joshua D. Bendor*

Solicitor General

Office of the Arizona Attorney General

2005 N. Central Ave.

Phoenix, AZ 85004

(602) 542-3333

Joshua.Bendor@azag.gov

ACL@azag.gov

PHILIP J. WEISER

Attorney General
State of Colorado

/s/ Shannon Stevenson*

Shannon Stevenson, CO Reg. No. 35542

Solicitor General

Colorado Department of Law

Ralph L. Carr Judicial Center

1300 Broadway, 10th Floor

Denver, CO 80203

Phone: (720) 508-6749

Shannon.Stevenson@coag.gov

Attorney for State of Colorado

STATE OF CONNECTICUT

WILLIAM TONG

ATTORNEY GENERAL

By: /s/ Michael K. Skold

Michael K. Skold*

Solicitor General

165 Capitol Ave

Hartford, CT 06106

(860) 808-5020

Michael.skold@ct.gov

KATHLEEN JENNINGS

Attorney General of Delaware

By: /s/ Ian R. Liston

Ian R. Liston*

Director of Impact Litigation

Vanessa L. Kassab*

Deputy Attorney General

Delaware Department of Justice

820 N. French Street

Wilmington, DE 19801

(302) 683-8899

ian.liston@delaware.gov

BRIAN L. SCHWALB

Attorney General for the District of Columbia

/s/ Andrew C. Mendrala

ANDREW C. MENDRALA*

Assistant Attorney General

Public Advocacy Division

Office of the Attorney General for the D.C.

Sixth Street, NW

Washington, D.C. 20001

(202) 724-9726

Andrew.mendrala@dc.gov

Counsel for the District of Columbia

ANNE E. LOPEZ

ATTORNEY GENERAL OF HAWAI'I

/s/Kaliko 'onālani D. Fernandes

David D. Day*

Special Assistant to the Attorney General

Kaliko 'onālani D. Fernandes*

Solicitor General

Department of the Attorney General

425 Queen Street

Honolulu, HI 96813

(808) 586-1360

kaliko.d.fernandes@hawaii.gov

AARON M. FREY

Attorney General for

the State of Maine

/s/ Jason Anton

JASON ANTON*

Assistant Attorney General

Office of the Attorney General

6 State House Station

Augusta, ME 04333-0006

Tel.: 207-626-8800

Fax: 207-287-3145

jason.anton@maine.gov

ANTHONY G. BROWN
ATTORNEY GENERAL OF MARYLAND

/s/ Adam D. Kirschner
Adam D. Kirschner*
Senior Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
akirschner@oag.state.md.us
410-576-6424

Counsel for the State of Maryland

DANA NESSEL
Attorney General of Michigan

By: /s/ Linus Banghart-Linn
Linus Banghart-Linn*
Chief Legal Counsel
Michigan Department of Attorney General
525 W. Ottawa St.
Lansing, MI 48933
(517) 281-6677
Banghart-LinnL@michigan.gov

Attorneys for the State of Michigan

KEITH ELLISON
Attorney General of Minnesota

By /s/ Liz Kramer*
Solicitor General
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 600
St. Paul, Minnesota 55101-2131
(651) 757-1010
liz.kramer@ag.state.mn.us

Attorneys for State of Minnesota

AARON D. FORD

ATTORNEY GENERAL OF NEVADA

/s/ Heidi Parry Stern

Heidi Parry Stern*

Solicitor General

Office of the Nevada Attorney General

1 State of Nevada Way, Ste. 100

Las Vegas, NV 89119

(702) 486-5708

HStern@ag.nv.gov

Counsel for the State of Nevada

JEFF JACKSON

Attorney General of North Carolina

LAURA HOWARD*

Chief Deputy Attorney General

By /s/ Daniel P. Mosteller*

Associate Deputy Attorney General

North Carolina Department of Justice

PO Box 629

Raleigh, NC 27602

919-716-6026

dmosteller@ncdoj.gov

Attorneys for State of North Carolina

STATE OF NEW MEXICO

RAÚL TORREZ

ATTORNEY GENERAL

/s/ Anjana Samant

Anjana Samant*

Deputy Counsel for Impact Litigation

New Mexico Department of Justice

P.O. Drawer 1508

Santa Fe, NM 87504-1508

(505) 490-4060

asamant@nmdoj.gov

DAN RAYFIELD

Attorney General of Oregon

CHRISTINA L. BEATTY-WALTERS*

Senior Assistant Attorney General

Trial Attorney

Tel (971) 673-1880

Fax (971) 673-5000

Tina.BeattyWalters@doj.oregon.gov

Of Attorneys for Defendants

CHARITY R. CLARK

Attorney General of Vermont

By: */s/ Jonathan T. Rose*

Jonathan T. Rose*

Solicitor General

109 State Street

Montpelier, VT 05609

(802)828-3171

Jonathan.rose@vermont.gov

NICHOLAS W. BROWN

Attorney General of Washington

s/ Andrew Hughes

ANDREW HUGHES*

LEAH BROWN*

Assistant Attorneys General

Office of the Washington State Attorney General

800 Fifth Avenue, Suite 2000

Seattle, WA 98104

(206) 464-7744

andrew.hughes@atg.wa.gov

leah.brown@atg.wa.gov

Attorneys for Plaintiff State of Washington

JOSHUA L. KAUL

Attorney General of Wisconsin

/s/ Aaron J. Bibb

Aaron J. Bibb*

Assistant Attorney General

Wisconsin Department of Justice

17 West Main Street

Post Office Box 7857

Madison, Wisconsin 53707-7857

(608) 266-0810

bibbaj@doj.state.wi.us

Counsel for the State of Wisconsin

**pro hac vice forthcoming*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK; STATE OF CALIFORNIA; STATE OF ILLINOIS; STATE OF RHODE ISLAND; STATE OF NEW JERSEY; COMMONWEALTH OF MASSACHUSETTS; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; STATE OF HAWAI'I; STATE OF MAINE; STATE OF MARYLAND; STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NORTH CAROLINA; STATE OF NEW MEXICO; STATE OF OREGON; STATE OF VERMONT STATE OF WASHINGTON; STATE OF WISCONSIN,

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DONALD TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; U.S. OFFICE OF MANAGEMENT AND BUDGET; MATTHEW J. VAETH, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF THE U.S. OFFICE OF MANAGEMENT AND BUDGET; U.S. DEPARTMENT OF THE TREASURY; SCOTT BESENT, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE TREASURY; PATRICIA COLLINS IN HER OFFICIAL CAPACITY AS TREASURER OF THE U.S.; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; DOROTHY A. FINK, M.D., IN HER OFFICIAL CAPACITY AS ACTING SECRETARY OF HEALTH AND HUMAN SERVICES; U.S. DEPARTMENT OF EDUCATION; DENISE CARTER, IN HER OFFICIAL CAPACITY AS ACTING SECRETARY OF EDUCATION; U.S. FEDERAL EMERGENCY MANAGEMENT AGENCY; CAMERON HAMILTON, IN HIS OFFICIAL CAPACITY AS ACTING ADMINISTRATOR OF THE U.S. FEDERAL EMERGENCY MANAGEMENT

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OFFICIAL CAPACITY AS ACTING
ADMINISTRATOR OF THE U.S.
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U.S. DEPARTMENT OF HOMELAND
SECURITY; KRISTI NOEM, IN HER CAPACITY
AS SECRETARY OF THE U.S. DEPARTMENT
OF HOMELAND SECURITY; U.S.
DEPARTMENT OF JUSTICE; JAMES R.
McHENRY III, IN HIS OFFICIAL CAPACITY AS
ACTING ATTORNEY GENERAL OF THE U.S.
DEPARTMENT OF JUSTICE; THE NATIONAL
SCIENCE FOUNDATION and DR.
SETHURAMAN PANCHANATHAN, IN HIS
CAPACITY AS DIRECTOR OF THE NATIONAL
SCIENCE FOUNDATION,

Defendants.

AFFIRMATION OF KENNETH J. SUGARMAN

KENNETH J. SUGARMAN, an attorney admitted to practice *pro hac vice* before this Court, does hereby state the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am Kenneth J. Sugarman, Deputy Attorney General in the State of California's Department of Justice, who appears on behalf of the State of California in this action.

2. I submit this declaration as supplemental evidence in further support of Plaintiffs' Motion for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65. The facts set forth herein are based upon my personal knowledge and/or a review of the files in my possession.

3. I have attached hereto this affirmation true and correct copies (redacted to protect attorney-client privilege and the privacy of the employees) of the following emails received by the California Governor's Office and the Hawai'i Attorney General's Office and forwarded to my office:

- A. An email sent Thursday, January 30, 2025 at 8:33 a.m. Pacific Standard Time, forwarding an email chain between an employee of the Environmental Protection Agency (EPA)'s Grant Services Branch and an employee of Atma Connect, sent Thursday, January 30, 2025 at 7:50 a.m. Mountain Standard Time (9:50 a.m. EST); and
- B. An email sent January 30, 2025 at 2:27 p.m. Pacific Standard Time, forwarding an email chain between an EPA financial specialist and an accountant in the Hawai'i Department of Land and Natural Resources, sent Wednesday, January 29 at 9:23 a.m. Hawaii Standard Time (2:23 p.m. EST).

4. Both emails from EPA respond to substantively similar requests from, in the first case, a not-for-profit non-governmental organization (Atma Connect), and in the second case, the Hawai'i Department of Natural Resources, alerting EPA to their inability to draw down already-awarded funds in the Automated Standard Application for Payments (ASAP) system that federal agencies use to disburse federal financial assistance under executed grant agreements and similar instruments.

5. Both EPA emails use identical language to respond to the recipient's request: "EPA is working diligently to implement the Office of Management and Budget's memorandum, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, to align Federal spending and action with the will of the American people as expressed through President Trump's priorities. The agency is temporarily pausing all activities related to the obligation or disbursement of EPA Federal financial assistance at this time. EPA is continuing to work with OMB as they review processes, policies, and programs, as required by the memorandum."

6. Both EPA emails were sent after the purported rescission of the federal Office of Management and Budget's Memo M-25-13, which purported rescission, on information and belief, occurred around 1 p.m. EST on January 29, 2025.

I declare the above under penalty of perjury pursuant to 28 U.S.C. § 1746.

Dated: San Francisco, California
January 30, 2025



Kenneth L. Sugarman
Deputy Attorney General

Exhibit 1

From: [REDACTED] <[REDACTED]@usclimatealliance.org>
Sent: Thursday, January 30, 2025 8:33 AM
To: [REDACTED] <[REDACTED]@gov.ca.gov>
Subject: FW: ASAP account

[REDACTED] Please see below email from EPA today indicating that funds are still paused, and that the agency is still citing OMB's rescinded memo.

[REDACTED] | U.S. Climate Alliance

From: [REDACTED] <[REDACTED]@environmentalprotectionnetwork.org>
Date: Thursday, January 30, 2025 at 11:29 AM
To: [REDACTED] <[REDACTED]@usclimatealliance.org>, [REDACTED] <[REDACTED]@lawyersforgoodgovernment.org>
Subject: Fwd: ASAP account

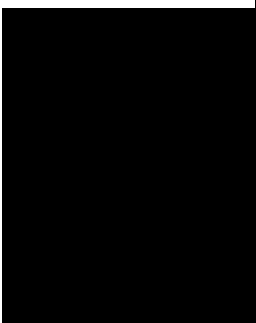
From: [REDACTED] <[REDACTED]@epa.gov>
Date: January 30, 2025 at 7:50:43 AM MST
To: [REDACTED] <[REDACTED]@epa.gov>, [REDACTED] <[REDACTED]@atmaconnect.org>
Cc: [REDACTED] <[REDACTED]@atmaconnect.org>, [REDACTED] <[REDACTED]@epa.gov>
Subject: RE: ASAP account

Good morning,

Until further notice, funds will not be available for this grant.

EPA is working diligently to implement the Office of Management and Budget's memorandum, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, to align Federal spending and action with the will of the American people as expressed through President Trump's priorities. The agency is temporarily pausing all activities related to the obligation or disbursement of EPA Federal financial assistance at this time. EPA is continuing to work with OMB as they review processes, policies, and programs, as required by the memorandum.

Regards,



U.S. EPA
Grants Services Branch
RTP-Finance Division, NC

Phone [REDACTED]
Email [REDACTED]

[Forward Payments & Federal Financial Reports \(SF-425\)](#)
[EPA Finance Home Page](#)
[Search for Federal Financial Reports \(SF-425\)](#)



From: [REDACTED] <[REDACTED]@epa.gov>
Sent: Thursday, January 30, 2025 9:31 AM
To: [REDACTED] <[REDACTED]@atmaconnect.org>
Cc: [REDACTED] <[REDACTED]@atmaconnect.org>, [REDACTED] <[REDACTED]@epa.gov>, [REDACTED] <[REDACTED]@epa.gov>
Subject: RE: ASAP account

Hi [REDACTED]

I've added [REDACTED], EPA Financial Specialist, to see if [REDACTED] can assist you. Please also copy rtpfcgrants@epa.gov for drawdowns and ASAP related questions.

Thanks!

[REDACTED]
Grants Management Specialist
Grants & Compliance Management Branch
EPA - Region 2

[REDACTED] [\[REDACTED\]@epa.gov](mailto:[REDACTED]@epa.gov)



From: [REDACTED] <[REDACTED]@atmaconnect.org>

Sent: Wednesday, January 29, 2025 2:46 PM

To: [REDACTED] <[REDACTED]@epa.gov> [REDACTED] <[REDACTED]@epa.gov>

Cc: [REDACTED] <[REDACTED]@atmaconnect.org>

Subject: ASAP account

Importance: High

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Hello [REDACTED].

Atma has not been able to execute a drawdown on ASAP since yesterday. Since we are doing our drawdowns currently as expense reimbursements, it is important for us to know when the system will be available again for us to use.

The error I receive is screenshots below. The Account ID is the one I always use when accessing the system. Please advise, and I am happy to get on a call at your earliest convenience. [REDACTED].

Initiate Payment Requests (PR)

Step 1 of 4 (Continued) Retrieve Accounts

ERROR 839: No accounts found matching criteria.

Enter one or more of the following

Recipient ID : 7232618

ALC / Region : 68128933

Account ID (or partial) :

Continue

Help for this
Step

Warm regards,

[REDACTED]

Exhibit 2

[REDACTED]

From: [REDACTED] <[REDACTED]@hawaii.gov>

Sent: Thursday, January 30, 2025 2:27 PM

To: [REDACTED]@doj.ca.gov; [REDACTED]@doj.ca.gov;

Kenneth Sugarman <Kenneth.Sugarman@doj.ca.gov>

Subject: FW: ASAP Draw Down Status

Importance: High

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

[REDACTED]
[REDACTED]
Department of the Attorney General, State of Hawai'i

Ka 'Oihana O Ka Loio Kuhina

Phone: [REDACTED]

Email: [REDACTED]

Pronouns: [REDACTED]

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From: [REDACTED]@hawaii.gov>

Sent: Thursday, January 30, 2025 12:25 PM

To: [REDACTED]@hawaii.gov>

Cc: [REDACTED]@hawaii.gov>

Subject: FW: ASAP Draw Down Status

Importance: High

Hi [REDACTED]

Forwarding this email from [REDACTED]

Mahalo
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Department of the Attorney General

Ka 'Oihana O Ka Loio Kuhina

425 Queen Street

Honolulu, Hawaii 96813

Tel: [REDACTED]

Fax: [REDACTED]



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From: [REDACTED] <[REDACTED]@hawaii.gov>

Sent: Thursday, January 30, 2025 12:23 PM

To: [REDACTED] <[REDACTED]@hawaii.gov>

Subject: FW: ASAP Draw Down Status

Importance: High

From: [REDACTED] <[REDACTED]@hawaii.gov>

Sent: Thursday, January 30, 2025 12:22 PM

To: [REDACTED] <[REDACTED]@hawaii.gov>

Cc: [REDACTED] <[REDACTED]@hawaii.gov>

Subject: FW: ASAP Draw Down Status

From: [REDACTED] <[REDACTED]@epa.gov>

Sent: Wednesday, January 29, 2025 9:23 AM

To: [REDACTED] <[REDACTED]@hawaii.gov>; [REDACTED] <[REDACTED]@epa.gov>

Cc: [REDACTED]@hawaii.gov>; [REDACTED]@hawaii.gov>
Subject: [EXTERNAL] RE: ASAP Draw Down Status

Good afternoon [REDACTED]

EPA is working diligently to implement the Office of Management and Budget's memorandum, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, to align Federal spending and action with the will of the American people as expressed through President Trump's priorities. The agency is temporarily pausing all activities related to the obligation or disbursement of EPA Federal financial assistance at this time. EPA is continuing to work with OMB as they review processes, policies, and programs, as required by the memorandum.

Respectfully,



EPA Finance Home Page: <http://www2.epa.gov/financial> | Search for SF425s: <https://www.epa.gov/grants/epa-grantee-forms> | Forward payments & SF425s: rtpfc-grants@epa.gov | Org Email: rtpfc-grants@epa.gov | [RTP-FC Customer Service Survey](#)

From: [REDACTED]@hawaii.gov>
Sent: Wednesday, January 29, 2025 2:18 PM
To: [REDACTED]@epa.gov>; [REDACTED]
[REDACTED]@epa.gov>
Cc: [REDACTED]@hawaii.gov>; [REDACTED]@hawaii.gov>
Subject: ASAP Draw Down Status

■

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Hi [REDACTED],

I currently have 2 invoices needs to process, but our Climate grant (98T67001) account in ASAP is suspended since yesterday afternoon and it is till suspended this morning (HST). Would you let me know if there is a time that the account will be available in ASAP please? Account info as attached.

Thank you,

[REDACTED]

Accountant

Administrative Services Office - Fiscal Office

Department of Land and Natural Resources

Office: [REDACTED]

Email: [REDACTED]