Photo: Lara John via Unsplash

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This time last year, local-government and non-profit grantees’ hearts dropped when EPA Administrator Lee Zeldin announced via X that he’s ending the “boondoggle.” The so-called “boondoggle” was Solar for All (SFA), a $7 bn program designed to subsidize residential solar in low-income communities across America. This would help poor communities increase their energy independence, drive down energy prices, and insulate them from utility/grid price volatility. In Zeldin’s own words: “What a grift!”

The real grift was that the Administration was illegally pulling funds from countless low-income communities, many of whom voted for Trump. Nearly three-quarters of clean-energy investment dollars under the Inflation Reduction Act were slated to go to states that voted for Trump. This was a serious blow to grantees who had already spent multiple years and considerable resources applying for grants, planning implementation programs, and hiring new workforces in anticipation of money that never came.

So, why would EPA do this? In July 2025, Congress repealed the Greenhouse Gas Reduction Fund, the program that housed SFA. Zeldin’s EPA, with this “clear language and intent from congress,” went about slashing the program. Unfortunately for Zeldin, Congress was quite clear that SFA was not to be touched. Congress’s repeal (Sec. 60002) only states that “*unobligated* balances” are to be rescinded. And indeed, 99.7% of SFA funding had already been *obligated* over a year prior. This was corroborated by Republican drafters, such as Morgan Griffith (R-VA), who stated that the bill’s language “does not affect” obligated balances and that those “would still be going forward.” Nonetheless, EPA forged ahead and four separate lawsuits ensued.

Graphic: Yale Climate Connections

Just this month, Plaintiffs won two of these cases. Both courts vacated EPA’s grant termination on similar grounds: the first held that EPA acted “contrary to Congress’s clear intent,” and the second similarly found that “EPA’s termination . . . rested on a contrary reading” of Congress’s statutory intent. While Plaintiffs will have to hold their breaths for the certainly impending appeals, this was a big win for previously dire-looking litigation.

In particular, Harris County, Texas (one of SFA’s largest grantees) narrowly dodged a procedural bullet that spelled demise for another SFA case earlier this year. That case, filed by a coalition of state grantees, was dismissed for lack of jurisdiction. There, EPA successfully argued that the SFA grants were a fundamentally contractual issue. Therefore, the Court of Federal Claims, not the District Courts, had sole jurisdiction. Harris County convinced their judge otherwise.

These two outcomes are striking given the cases’ similarities: both cases had government-beneficiary plaintiffs, both complaints alleged similar theories on the exact same agency action, and both courts used the same jurisdiction test from *Megapulse, Inc. v. Lewis*. Understanding these cases is crucial with grant/subsidy legislation quickly becoming just as (if not more) popular than traditional command-and-control regulation. And in an age of machete-style politics, grantees must be ready to litigate if they want to keep their federal funding.

The two opinions came down to a matter of judicial framing. On the one hand, EPA’s termination was a final agency action challengeable under run-of-the-mill APA grounds. On the other, EPA’s termination fundamentally involved a funding decision, for which the only true operative relief is money. And you can’t say the states didn’t try. In the dismissal order, the court cites the states’ repeated pleas that they were not asking for reinstatement of funds.

Additionally, the two courts categorized the relief very differently. The states’ dismissal held that vacatur would provide purely retroactive relief akin to contract claims. It reasoned that because Congress repealed the SFA *program* (and therefore EPA had no ongoing authority), the only dispute left was over the money. By contrast, the Harris County opinion focused on how vacatur and an injunction are merely prohibitory and do nothing to reinstate the funds. Instead, the court reasoned, the requested relief would aid Plaintiffs in the administrative challenge over their funding termination.

This type of line-drawing is the exact thing future grantees will want to pay attention to in the SFA cases. Is a grant program contractual or administrative? What does a court do when the administrative program is gone but the funding was not rescinded? What is the relevant directive when there are odd statutory webs of passage, repeal, partial recission, and other unorthodox steps that have become normalized in the Trump era? We will have to wait for the appeals to get our final answer.

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