



## President Trump Announces the End to \$2.75 Billion Digital Equity Act Programs

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On May 9, President Donald Trump declared the Digital Equity Act unconstitutional and announced that he would be immediately “ending” the programs created under the law.

The President specifically called out the program’s “woke handouts based on race,” and stated that the program is an “ILLEGAL \$2.5 BILLION DOLLAR GIVEAWAY.” He also shared that Commerce Secretary Howard Lutnick agreed that the law is unconstitutional.

The Digital Equity Act provides for \$2.75 billion for grants through three separate digital equity programs administered by the Department of Commerce’s National Telecommunications and Information Administration (NTIA): The State Digital Equity Planning Grant Program (DE State Planning Program), the State Digital Equity Capacity Grant Program (DE Capacity Program) and the Digital Equity Competitive Grant Program (DE Competitive Program).

The Department of Commerce plans to cancel at least the DE Capacity Program and DE Competitive Program, although it is unclear whether they will try to claw back funds for the DE State Planning Program. According to news reports, the Department of Commerce notified awardees in the DE Competitive Program that it was canceling their award. The letter indicated that the agency was canceling the award because “grants issued pursuant to [the Digital Equity Act] were created with, and administered using, impermissible and unconstitutional racial preferences.” The letter also cited a federal regulation that allows agencies to terminate financial assistance awards based on a change in agency policy goals.

We also understand that states received similar letters notifying them of the cancellation of their DE Capacity Program awards.

The President's announcement leaves open the question of whether he will formally recommend to Congress a rescission of any unspent digital equity funding. As a general matter, the Impoundment Control Act of 1974 (ICA) establishes procedures for the President to follow when seeking to withhold appropriated funds. If the President does recommend to Congress a rescission, it will likely kick off a lobbying sprint over the fate of those funds. A message under the ICA is subject to expedited procedures in both the House and Senate, and if Congress does not ultimately approve the proposal within a specified time frame (i.e., 45 days of continuous session after receipt of the message), the funds must be spent as originally appropriated by Congress.

If the President does not seek congressional approval for a rescission and instead attempts to cancel the program(s) through executive branch action, it will likely lead to litigation over the executive branch's ability to do so. And regardless of whether the President seeks a congressional rescission or not, grantees may bring reliance litigation against the federal government for expenses they incurred in reliance on their digital equity awards.

## Categories



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