

No. 25-1477

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UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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STATE OF RHODE ISLAND, *et al.*,  
*Plaintiffs-Appellees*,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, *et al.*,  
*Defendants-Appellants*.

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On Appeal from the United States District Court for the District of Rhode Island,  
Hon. John J. McConnell, Jr., U.S. District Chief Judge

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**BRIEF OF *AMICUS CURIAE* NATIONAL FEDERATION OF FEDERAL  
EMPLOYEES-INTERNATIONAL ASSOCIATION OF MACHINISTS AND  
AEROSPACE WORKERS, AFL-CIO IN SUPPORT OF PLAINTIFFS-  
APPELLEES AND AFFIRMANCE OF THE DISTRICT COURT'S ORDER**

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**RULE 29(a)(4)(E) STATEMENT**

*Amicus curiae* files this brief with the consent of all parties. *See* Fed. R. App. P. 29(a)(2). Pursuant to First Circuit Rule 29(a)(4)(E), undersigned counsel states that no party's counsel authored the brief in whole or in part; that no party or party's counsel contributed money that was intended to fund preparing or submitting the brief; and that no person other than the amicus curiae contributed money that was intended to fund preparing or submitting the brief.

September 3, 2025

/s/ Molly M. Cain

Molly M. Cain

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1(a), counsel for *amicus curiae* hereby certifies that no party to this brief has a parent corporation, issues stock, or is a publicly held corporation.

September 3, 2025

/s/ Molly M. Cain

Molly M. Cain

### **INTEREST OF *AMICUS CURIAE***

Established in 1917, the National Federation of Federal Employees-International Association of Machinists and Aerospace Workers, AFL-CIO (“NFFE”) is the first and oldest union to represent civil service federal employees, representing approximately 110,000 federal government workers across the United States. This includes thirty-five current or former employees of the Minority Business Development Agency (“MBDA”). NFFE’s mission is to advance the social and economic welfare and education of federal workers, including its members.

For decades, NFFE has litigated cases advocating for its members. *See, e.g., Nat’l Fed’n of Fed. Emps., Loc. 1442 v. Dep’t of the Army*, 810 F.3d 1272 (Fed. Cir. 2015); *Nat’l Fed’n of Fed. Emps. v. Cheney*, 884 F.2d 603 (D.C. Cir. 1989); *Nat’l Fed’n of Fed. Emps. v. Greenberg*, 983 F.2d 286 (D.C. Cir. 1993). NFFE also has participated as amicus to advocate for its members. *See Van Meter v. Barr*, 976 F.2d 1 (D.C. Cir. 1992).

In this case, NFFE has a strong interest in uplifting the meaningful work of its members at the MBDA and bringing attention to the Trump Administration’s actions at issue which have had a significant detrimental impact on NFFE’s members and their work.

## INTRODUCTION

For more than half a century, the MBDA has helped make the American dream a reality for business owners across the country by helping them overcome discrimination and other barriers. Now codified by statute, 15 U.S.C. § 9501 *et seq.*, the MBDA helps Black-owned businesses, other minority-owned businesses, and businesses owned by other socially or economically disadvantaged people of all backgrounds—statutorily defined as “Minority Business Enterprises” or “MBEs”<sup>1</sup>—thrive through its nationwide network of Business Centers and other programs. The MBDA’s economic impact speaks for itself: in fiscal year 2024 alone, the Agency received \$70 million<sup>2</sup> in funding, but returned a nearly \$4.9 *billion*<sup>3</sup> impact for the American economy writ large.

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<sup>1</sup> Per the MBDA’s authorizing statute, MBEs must be at least 51% owned and operated by a socially or economically disadvantaged person. 15 U.S.C. § 9501(9)(A). “Socially disadvantaged persons” are those who have “been subjected to racial or ethnic prejudice or cultural bias . . . because of the identity of the individual as a member of a group. . . .” *Id.* § 9501(15)(A). “Economically disadvantaged persons” are those whose “ability . . . to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area[,] because of the identity of the individual as a member of a group. . . .” *Id.*

<sup>2</sup> Madeleine Ngo, *Trump’s Dismantling of Minority Business Agency Could Hinder Job Growth*, N.Y. Times (Apr. 1, 2025), <https://www.nytimes.com/2025/04/01/us/politics/minority-business-development-agency-trump.html>.

<sup>3</sup> MBDA, *Annual Performance Summary: Fiscal Year 2024*, <https://www.mbda.gov/sites/default/files/2025-03/fy-2024-annual-performance-report.pdf> (last visited Aug. 22, 2025).

Despite the MBDA's success, the Trump Administration unlawfully seeks to dismantle it through Executive Order 14238 (the "Reduction EO").<sup>4</sup> This Reduction EO seeks to functionally eliminate the MBDA and its staff. Dismantling the MBDA would be devastating for Black businesses, other MBEs, and the MBDA's critical programs. And these harms would have harmful ripple effects on the American economy overall.

Gutting the MBDA also harms its majority-Black workforce who carries out its important work. These employees build on the long legacy of Black Americans' service in federal government, an employer that historically has provided Black Americans with stable jobs and a pathway to the middle class before such opportunities were open to them in much of the private sector.<sup>5</sup> The Administration's attempt to eliminate the MBDA tramples on this legacy.

Finally, the attack on the MBDA is also of a piece with the Trump Administration's larger efforts to eliminate programs that support underserved or disadvantaged populations. Despite the MBDA's mandate to support business owners of all backgrounds, and its record of economic success, it appears to be a casualty of the Trump Administration's crusade against anything it pejoratively

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<sup>4</sup> Exec. Order No. 14,238, 90 Fed. Reg. 13043 (Mar. 14, 2025).

<sup>5</sup> Michael Madowitz, et al., *Public Work Provides Economic Security for Black Families and Communities*, Ctr. for Am. Progress (Oct. 23, 2020), <https://www.americanprogress.org/article/public-work-provides-economic-security-black-families-communities/>.

labels as diversity, equity, and inclusion (“DEI”)—rather than any legitimate bureaucratic decision.

In short, dismantling the MBDA would cut off far more than just funding: it would end a wide range of important services that the agency has long provided to MBEs, and in turn, to communities nationwide. Nor is this dismantling even justified by the Reduction EO’s stated objective: to “reduc[e] . . . the elements of the Federal bureaucracy that the President has determined are unnecessary”<sup>6</sup>—as the Reduction EO cannot be squared with the fact that the MBDA returns far greater economic impact than any funding it receives. And as Defendants-Appellants’ actions have demonstrated, nearly all of the employees of the MBDA responsible for this critical work have been subject to haphazard agency actions as a result of the Reduction EO. The Court should take account of these considerations and prevent further disruption and harm. The Preliminary Injunction should be affirmed.

## **BACKGROUND**

### **I. For Decades, Congress Has Affirmed the MBDA’s Mandate to Promote Economic Advancement of Disadvantaged Business Owners.**

#### **A. Creation of the MBDA.**

The MBDA was originally created in 1969 as the Office of Minority Business Enterprise (“OMBE”) by President Nixon, to foster opportunities for Black and

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<sup>6</sup> Reduction EO § 1.



minority-owned businesses and advance the American economy.<sup>7</sup> In 1979, President Carter renamed the OBME as the MBDA, and refocused the agency on its economic goal of helping “minority businesses develop into medium- and large-size firms in growth industries that produced jobs, stabilized communities, and improved the overall economy.”<sup>8</sup>

Congress has continued to affirm this commitment to the MBDA and its mission. For over 55 years, Congress has reappropriated funding for the MBDA.<sup>9</sup> And in 2021, through bipartisan action, Congress codified the MBDA in the Minority Business Development Act (the “Act”).<sup>10</sup> The Act recognized the MBDA as a statutorily-mandated agency housed in the Department of Commerce, and directed the MBDA to establish and maintain certain programs, including the MBDA Business Center Program.<sup>11</sup> Although the MBDA originated with President Nixon’s focus on Black and minority-owned businesses, the MBDA’s programs and assistance today are available to all individuals who qualify as socially or economically disadvantaged regardless of race or ethnicity, a requirement enshrined

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<sup>7</sup> Dean Kotlowksi, *Black Power-Nixon Style: The Nixon Administration and Minority Business Enterprise*, 72 Bus. Hist. Rev. (Autumn) 411 (1998).

<sup>8</sup> S. 2565, 96th Cong. (1980); H.R. 6904, 86th Cong. (1980).

<sup>9</sup> Adam G. Levin, Congr. Rsch. Serv., R48616, *The Minority Business Development Agency: An Overview of Its History and Programs* 28, 32 tbl.A-1 MBDA Appropriations, FY1970-FY2024 (2024).

<sup>10</sup> S. 2068, 117th Cong. (2021).

<sup>11</sup> 15 U.S.C. § 9501, *et seq.*

in the Act.<sup>12</sup>

**B. History of Discrimination Against Minority Business Owners, Including Black Business Owners.**

In reappropriating funds for the MBDA over the past half-century and ultimately passing the Act in 2021, Congress was responding to significant evidence of ongoing discrimination and other barriers facing entrepreneurs from disadvantaged backgrounds. As the congressional record since 1970 demonstrates, discrimination and its lingering effects persist and continue to harm aspiring minority business owners.<sup>13</sup> For example, congressional evidence from 1980 to 1995 found that “[o]ver and over again, studies show that minority applicants for business loans are more likely to be rejected, and, when accepted, receive smaller loan amounts than nonminority applicants with *identical* collateral and borrowing

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<sup>12</sup> *Id.* § 9501(15)(A); Julie M. Lawhorn & Adam G. Levin, Cong. Rsch. Serv., IN12337, *District Court Ruling on MBDA Business Development Program* (2024).

<sup>13</sup> *See* H.R. Rep. No. 94-468 (1975); H.R. Rep. No. 97-956 (1982); Pub. L. 100-460, 102 Stat. 2229 (1988); *Minority Business Development Act of 1988: Hearing on H.R. 1769 Before the H. Sub. Comm. on Procurement, Innovation, and Minority Enterprise Development of the Comm. on Small Bus.*, 100th Cong. (1988); The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey, 61 Fed. Reg. 26042-01 (May 23, 1996); *Assessing Access: Obstacles and Opportunities for Minority Small Business Owners in Today’s Capital Markets: Hearing Before the Comm. on Small Bus. And Entrepreneurship*, 111th Cong. (2010); U.S. Dep’t of Com., MBDA, *Contracting Barriers and Factors Affecting Minority Business Enterprises: A Review of Existing Disparity Studies* (Dec. 2016); Notice of Report on the Lawful Uses of Race or Sex in Federal Contracting Programs, 87 Fed. Reg. 4955 (Jan. 31, 2022).

credentials.”<sup>14</sup> In 2016, prior to the passage of the Act, the MBDA produced a review of over 100 disparity studies that found that MBEs in every major industry in the country experienced substantial contracting disparities, which could not be explained by factors besides discrimination.<sup>15</sup> And in 2021, Congress received testimony about how discrimination in housing and lending have negatively impacted Black wealth accumulation, thereby reducing the credit available to Black households.<sup>16</sup>

This evidence before Congress is consistent with broader research. Minority business owners have far less access to capital due, *inter alia*, to “racial discrimination in lending markets.”<sup>17</sup> This discrimination has a large effect on MBEs because access to capital is one of the most important factors in business formation

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<sup>14</sup> The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey, *supra* note 13.

<sup>15</sup> U.S. Dep’t of Com., MBDA, *supra* note 13.

<sup>16</sup> See *How Invidious Discrimination Works and Hurts: An Examination of Lending Discrimination and Its Long-term Economic Impacts on Borrowers of Color: Hearing Before Subcomm. on Oversight and Investigations of the H. Comm. on Fin. Servs.*, 117th Cong. 7 (2021) (testimony of William Darity Jr.).

<sup>17</sup> *Assessing Access: Obstacles and Opportunities for Minority Small Business Owners in Today’s Capital Markets: Hearing Before S. Comm. on Small Bus. and Entrepreneurship*, 111th Cong. 170–71 (2010) (statement of Robert Fairlie); *Closing the Gap: Exploring Minority Access to Capital and Contracting Opportunities: Hearing Before the S. Comm. on Small Bus. and Entrepreneurship*, 111th Cong. 24–31 (2011) (testimony of Robert Fairlie).

and growth.<sup>18</sup> Indeed, a 2021 study showed that over 60% of Black business owners struggled to obtain needed capital.<sup>19</sup> This, in turn, makes Black entrepreneurs approximately three times more likely than white entrepreneurs to suffer growth and profitability setbacks because of lack of capital.<sup>20</sup>

Access to capital is further limited for MBEs because of the large wealth gap between white and non-white families.<sup>21</sup> According to a 2020 study, Black families' net worth is less than 15% of the net worth of white families.<sup>22</sup> This wealth gap is due in part to a history of discriminatory practices, including redlining, denial of the benefits of the G.I. Bill to Black veterans, racial zoning practices, and the long-term effects of Jim Crow-era tax policies.<sup>23</sup> This wealth gap exacerbates already-existing capital constraints MBEs face because minority business owners have less personal wealth than white business owners to draw on for funding for their business, which

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<sup>18</sup> *Closing the Gap*, *supra* note 17; *Disparities in Access to Capital: What the Federal Government is Doing to Increase Support for Minority Owned Firms: Field Hearing Before the H. Comm. on Small Bus.*, 115th Cong. 2 (2018).

<sup>19</sup> Jessica Fulton, *Exploring Challenges for Small-Business Owners Across Race* 21, Joint Ctr. for Pol. & Econ. Stud. (Apr. 13, 2022), <https://jointcenter.org/wp-content/uploads/2022/04/Exploring-Challenges-for-Small-Business-Owners-Across-Race-Joint-Center.pdf>.

<sup>20</sup> U.S. Chamber of Com., *Access to Capital for Minority-Owned Business*, <https://www.uschamber.com/finance/growth-engine/access-to-capital-for-minority-owned-businesses> (last visited Aug. 22, 2025).

<sup>21</sup> *How Invidious Discrimination Works and Hurts*, *supra* note 16.

<sup>22</sup> U.S. Chamber of Com., *supra* note 20.

<sup>23</sup> *How Invidious Discrimination Works and Hurts*, *supra* note 16.

is especially needed for MBEs that have less access to external capital.<sup>24</sup> Black businesses, in particular, are often undercapitalized due to these factors. Without access to sufficient external capital, 70.6% of Black entrepreneurs report relying on their own savings to fund their businesses.<sup>25</sup> But, because Black businesses often have far less savings to draw on due to the wealth gap, this further “drives more of a divide in access to capital.”<sup>26</sup>

Further, because of the lack of access to capital, MBEs are particularly reliant on loans. But, due to discriminatory loan practices, MBEs are nearly three times more likely to be denied loans than nonminority firms and far less likely to obtain loans than businesses owned by white males.<sup>27</sup> This pattern persists even when

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<sup>24</sup> Robert W. Fairlie & Alicia M. Robb, *Disparities in Capital Access Between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs*, MBDA (Jan. 2010), <https://www.mbda.gov/sites/default/files/migrated/files-attachments/DisparitiesinCapitalAccessReport.pdf>.

<sup>25</sup> U.S. Chamber of Com., *supra* note 20.

<sup>26</sup> *Id.*

<sup>27</sup> U.S. Dep’t of Com., MBDA, *The Minority Business Development Agency: Vital to Making America Great*, [https://www.mbda.gov/sites/default/files/migrated/files-attachments/MBDAVitaltoMakingAmericaGreat\\_170330.pdf](https://www.mbda.gov/sites/default/files/migrated/files-attachments/MBDAVitaltoMakingAmericaGreat_170330.pdf) (last visited Aug. 22, 2025).

controlling for individual creditworthiness.<sup>28</sup> Even when MBEs are able to access loans, they typically pay markedly higher interest rates.<sup>29</sup>

Congress amassed a robust evidentiary record, compiled over decades, documenting the racially discriminatory barriers that persist for businesses. Yet, in recognition that business owners of all backgrounds can face hurdles, in passing the Act, Congress assured the MBDA's programs were open to all disadvantaged entrepreneurs and not limited by race.

**C. The MBDA's Work and its Significant Benefits for American Business Owners and the American Economy.**

Although MBEs continue to face substantial barriers today, the MBDA's programs help mitigate the pervasive effects of discrimination. In particular, the MBDA helps businesses expand access to capital, markets, and contracts through public and private sector programs, policy, and research.<sup>30</sup> The MBDA also awards grants with widespread impact: in 2024 alone, the MBDA awarded grants to 128 businesses across the country in thirty-five states, Puerto Rico and D.C.<sup>31</sup> And in

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<sup>28</sup> *Minority Access to Capital: Field Hearing Before the S. Comm. on Small Bus. and Entrepreneurship*, 114th Cong. 32 (2015); Robert W. Fairlie, *Latino Business Ownership: Contributions and Barriers for U.S.-born and Immigrant Latino Entrepreneurs* 15–16, U.S. Small Bus. Admin. (2018), <https://advocacy.sba.gov/wp-content/uploads/2019/03/438-Latino-Business-Ownership-Report.pdf>.

<sup>29</sup> Levin, *supra* note 9, at 11.

<sup>30</sup> *Id.*

<sup>31</sup> U.S. Dep't of Com., MBDA, *MBDA Grantees* (Dec. 19, 2024), <https://www.mbda.gov/research/data/mbda-grantees> (follow “mbda-grantees-20241219.csv” hyperlink under “Downloads”; then filter for active grantees).

2023, the MBDA launched its Capital Readiness Program, focusing on the scale and growth of its entrepreneurial partners.<sup>32</sup> The program delivered funding to forty-three incubators and accelerators across the country and in a single year, enrolled 6,325 entrepreneurs into workshops that assisted the businesses in raising \$263 million in capital, the formation of 2,636 business, and nearly 2,500 networking events.<sup>33</sup>

The MBDA programs also provide other services for MBEs. Before the Reduction EO, MBDA operated a robust network of 41 Business Centers across 34 states and territories.<sup>34</sup> These Business Centers serve as business consultants for MBEs, providing technical assistance, analytics, trainings, and managerial assistance.<sup>35</sup> As of last year, the MBDA also enabled 30 other Specialty Centers and additional projects that provide technical and managerial assistance to businesses in rural areas, manufacturing fields, export markets, and more.<sup>36</sup> The Specialty Centers help MBEs improve operational efficiencies, manage risk and liability thresholds, access capital, and increase profits to close the wealth gap.<sup>37</sup>

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<sup>32</sup> MBDA, *supra* note 3.

<sup>33</sup> *Id.*; MBDA, *2024 Year in Review*, <https://www.mbda.gov/about-mbda/year-in-review/2024-year-in-review> (last visited Aug. 26, 2025).

<sup>34</sup> U.S. Dep't of Com., MBDA, *Fiscal Year 2025 Congressional Justification* 18–19 (2024), <https://www.commerce.gov/sites/default/files/2024-03/MBDA-FY2025-Congressional-Budget-Submission.pdf>.

<sup>35</sup> Levin, *supra* note 9; U.S. Dep't of Com., MBDA, *supra* note 34.

<sup>36</sup> *Id.*

<sup>37</sup> 15 U.S.C. § 9522.

The MBDA also provides MBEs with networking opportunities, such as connecting them with domestic and international strategic partnerships.<sup>38</sup> And for decades, the MBDA has hosted the National Minority Enterprise Development Week, including workshops for expanding minority business opportunities and operations, among other industry summits.<sup>39</sup>

Via these programs and more, the MBDA has had tremendous economic impact. In fiscal year 2024 alone, the MBDA had a financial impact of nearly \$4.9 billion, as measured by the amount of capital and contracts generated through its programs.<sup>40</sup> This is more than *69 times greater* than the \$70 million in funding it received last year.<sup>41</sup> In that year alone, the MBDA helped create and retain over 22,000 jobs.<sup>42</sup> The MBDA's efforts provide a critical boost to small businesses across America, helping one in four such businesses that receive any form of public support.<sup>43</sup>

## **II. The Federal Workforce, Including the MBDA, Has Long Provided Opportunities for Black Americans Dedicated to Public Service.**

Black Americans have long contributed their expertise to federal public

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<sup>38</sup> MBDA, *2024 Year in Review*, *supra* note 33.

<sup>39</sup> U.S. Dep't of Com., MBDA, *supra* note 34.

<sup>40</sup> MBDA, *supra* note 3.

<sup>41</sup> Ngo, *supra* note 2.

<sup>42</sup> MBDA, *supra* note 3.

<sup>43</sup> Small Bus. Majority, *Gutting of CDFI Fund, MBDA is Bad Small Business Policy* (Mar. 15, 2025), <https://smallbusinessmajority.org/press-release/gutting-cdfi-fund-mbda-bad-small-business-policy>.



service, including at the MBDA. For the better part of the last 150 years, federal jobs have been a path to the middle class for Black workers, who were often shut out of the private sector due to discrimination.<sup>44</sup> Federal workforce protections have enabled Black workers to find good paying jobs, leadership opportunities, and economic stability far before the private sector “contemplated such equality.”<sup>45</sup> For the past century, the federal government has hired Black workers at higher rates than the private sector.<sup>46</sup> As of September 2024, Black workers comprised 18.5% of the federal civilian workforce, compared to 12.8% of the private workforce.<sup>47</sup> The federal workforce is relatively diverse overall, with 40% of civil servants identifying as a racial or ethnic minority as of 2023.<sup>48</sup>

The MBDA is a strong reflection of the importance of federal job opportunities for Black Americans. Today, the MBDA’s crucial programs are

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<sup>44</sup> Madowitz, *supra* note 5, at 2.

<sup>45</sup> *Id.* at 3.

<sup>46</sup> *Id.*

<sup>47</sup> Marisa Peñaloza & Hansi Lo Wang, *Federal Work Shaped a Black Middle Class. Now It’s Destabilized by Trump’s Job Cuts*, NPR (Apr. 27, 2025), <https://www.npr.org/2025/04/27/nx-s1-5349442/black-federal-employees-trump-cuts>; Drew DeSilver, *What the Research Says About Federal Workers*, Pew Rsch. Ctr. (Jan. 7, 2025), <https://www.pewresearch.org/short-reads/2025/01/07/what-the-data-says-about-federal-workers/>.

<sup>48</sup> P’ship for Pub. Serv., *A Profile of the 2023 Federal Workforce*, <https://ourpublicservice.org/fed-figures/a-profile-of-the-2023-federal-workforce/> (last visited Aug. 26, 2025).

carried out by a majority-Black workforce with long tenures of civil service experience (and nearly all of whom are members of an ethnic or racial minority).<sup>49</sup>

### **III. The Reduction EO Left MBDA Unable to Carry Out Its Important Work Advancing American Entrepreneurship.**

On March 14, 2025, President Trump issued the Reduction EO, directing the MBDA and other agencies to eliminate programs and components not mandated by statute and to reduce functions and staff to the minimum level required by law.<sup>50</sup> The Reduction EO also required that the Office of Management and Budget withhold funds to the MBDA beyond the minimum necessary to fulfill their statutory functions.<sup>51</sup> In response to the Reduction EO, the MBDA placed nearly all of its approximately 40-person staff on administrative leave and ended all preexisting grant awards, new grant solicitations, data collection, and required communications with MBDA centers, and could not staff regional offices.<sup>52</sup> On March 21, 2025, the MBDA notified employees on administrative leave that they would be subject to a reduction in force (“RIF”) within 30 days of the notice.<sup>53</sup> The MBDA expressly cited the Reduction EO as the reason for these actions.<sup>54</sup> Although the Reduction EO claimed to preserve the MBDA at the minimum level to complete its statutory

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<sup>49</sup> Ex. A, Decl. of Yvette Piacsek (“Piacsek Decl.”) ¶ 6.

<sup>50</sup> Reduction EO § 2(a).

<sup>51</sup> *Id.* § 2(c).

<sup>52</sup> Appendix (A.) 816–18.

<sup>53</sup> A. 816.

<sup>54</sup> A. 1196; Piacsek Decl. ¶ 8.

functions, in fact, the Reduction EO effectively dismantled the Agency because the few remaining employees were insufficient to fulfill these duties.<sup>55</sup> Further, the remaining employees were told to cease many of their current projects and instead were tasked with new projects aimed at winding down the MBDA.<sup>56</sup> The Reduction EO also particularly harmed Black employees and women: a supermajority of the people impacted by the RIF were Black and a majority were women.<sup>57</sup>

On May 13, 2025, the District Court preliminarily enjoined the Reduction EO which resulted in the reinstatement of approximately 35 MBDA employees.<sup>58</sup> Additionally, all contracts with contractors in the Plaintiff States were reinstated, as were Business Center awards for recipients in the Plaintiff States.<sup>59</sup> Although the Preliminary Injunction has permitted the MBDA to resume vital work, if the injunction were lifted, that work would halt, causing significant harm to its mission and employees.<sup>60</sup>

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<sup>55</sup> A. 816.

<sup>56</sup> Piacsek Decl. ¶ 9.

<sup>57</sup> *Id.* ¶¶ 6, 8.

<sup>58</sup> A. 51–53.

<sup>59</sup> Defs.’ Oct. 11, 2025 Status Report, Doc. 74, p. 2.

<sup>60</sup> A. 816.

## ARGUMENT

### **I. Dismantling the MBDA Would be Devastating for Black Businesses, Other MBEs, Business Centers and Grantees, and Would Harm the American Economy.**

The Reduction EO's dismantling of the MBDA will not only harm Black businesses and other MBEs, but also will have ripple effects throughout the economy. Such a loss is plainly contrary to the interests of the American public. The District Court's Preliminary Injunction halting the unlawful Reduction EO is critical to preventing these grave consequences and protecting the MBDA's role in advancing American entrepreneurship and growth.

As described *supra* pp. 6–12, MBDA-supported businesses stimulate local economies, create jobs, and help the American economy overall. In fiscal year 2024 alone, the MBDA had a financial impact of nearly \$4.9 billion<sup>61</sup>—more than 69 times greater than the \$70 million in funding it received that year<sup>62</sup>—and created and retained over 22,000 jobs.<sup>63</sup>

The MBDA's support enables MBEs to thrive. There are more than 9.2 million minority-owned businesses in the United States, which generate more than

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<sup>61</sup> MBDA, *supra* note 3.

<sup>62</sup> Ngo, *supra* note 2.

<sup>63</sup> MBDA, *supra* note 3.

\$1.7 trillion in annual revenue and employ 8.9 million workers.<sup>64</sup> Black-owned businesses make up a large share of the recent growth in new businesses. From 2017 to 2022, at least 70,000 of the 132,000 newly-created businesses were Black-owned. In 2022, “Black-owned business added \$212 billion in revenue to the economy, employed an average of eight people per firm, and paid over \$61 billion in total salaries.”<sup>65</sup> And if properly supported by programs like those the MBDA provides, MBEs are predicted to be large drivers of the U.S. economy in the upcoming decades. A 2021 study estimated that MBEs’ contributions to the U.S. GDP are “expected to increase three-fold from 2020 to 2060.”<sup>66</sup>

Gutting the MBDA will undermine this progress. The 2021 study projected pre-Reduction EO trends in GDP growth; if the MBDA is dismantled and MBEs lose crucial support, it is unlikely that MBEs will be able to grow at the same rates. This is because, without the MBDA’s programs and funding, “thousands of small and emerging businesses will face greater challenges in scaling, competing, and

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<sup>64</sup> MBDA, Off. Pol’y Analysis & Dev., *The Contribution of Minority Business Enterprises to the U.S. Economy* 7 (Sept. 2021), <https://www.mbda.gov/sites/default/files/2021-09/The%20Contribution%20of%20MBEs%20to%20US%20Economy%20Report%20%20-%20September%202021.pdf>.

<sup>65</sup> Andre M. Perry et al., *Driving Prosperity: How Black-owned Businesses Fueled Recent Economic Growth*, Brookings Inst. (Feb. 19, 2025), <https://www.brookings.edu/articles/driving-prosperity-how-black-owned-businesses-fueled-recent-economic-growth/>.

<sup>66</sup> MBDA, *supra* note 64, at 85.

sustaining operations.”<sup>67</sup> Both the national economy and local economies lose when minority business owners are left on the sidelines.<sup>68</sup>

Dismantling the MBDA will also have immediate negative consequences for local economies. In the wake of the Reduction EO, most, if not all, of the Business Centers were closing, planning to close, or scaling back their programs.<sup>69</sup> For example, Louisiana’s Business Center was told the MBDA is “repurposing its funding allocations in a new direction” to comply with the Reduction EO.<sup>70</sup> This led that Center to cancel a training conference and events connecting MBEs with entrepreneurial resources.<sup>71</sup> And, in April 2025, the MBDA Business Center in Milwaukee “abruptly closed” entirely when it lost grant funding due to the Reduction EO.<sup>72</sup> Further, Washington State’s MBDA Business Center, which served

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<sup>67</sup> *MBDA’s Enduring Legacy at Risk: What Funding Cuts Mean for Minority Businesses*, Trivision (Mar. 18, 2025), <https://trivision.com/branding/mbdas-enduring-legacy-reflecting-on-its-impact-and-future-amid-federal-reductions/>.

<sup>68</sup> Perry, *supra* note 65; Jonathan Rothwell & Andre M. Perry, *Why Don’t More Americans Work for Black-owned Firms? Implications for Increasing Well-Being*, Brookings Inst. (June 21, 2024), <https://www.brookings.edu/articles/why-dont-more-americans-work-for-black-owned-firms-implications-for-increasing-well-being/>.

<sup>69</sup> Erik Gunn, *Judge Blocks Trump Order Against Three Federal Agencies*, Wis. Exam’r, (May 6, 2025), <https://wisconsinexaminer.com/2025/05/06/judge-blocks-trump-order-against-three-federal-agencies/>.

<sup>70</sup> Samantha Dorisca, *Minority Business Development Agency Gets Dismantled After Dispersing \$3.2B in Contracts Under the Biden Administration*, AfroTech, (Apr. 22, 2025), <https://afrotech.com/minority-business-development-agency-funding-dismantles>.

<sup>71</sup> *Id.*

<sup>72</sup> Gunn, *supra* note 69.

131 businesses in the state, providing “start-up workshops, training events, business loans, financial literacy tips, various certifications, and more,” lost its funding and is set to close due to the Reduction EO.<sup>73</sup>

Finally, the Reduction EO removes the vast majority of MBDA employees, who are necessary to carry out the MBDA’s work, further injuring the American economy. Many of the MBDA’s employees carry long tenures of specialized experience, which they have used to work closely with the MBDA’s development centers and small business partners nationwide.<sup>74</sup> Prior to the Reduction EO, the MBDA was already understaffed: Congress appropriated funds for nearly 100 employees, but the MBDA had only around 40 full-time staff. After the Reduction EO, nearly all of these employees were put on administrative leave.<sup>75</sup> It was impossible for the remaining few employees to carry out the work of the entire agency, including the MBDA’s statutorily-mandated functions, run its programs, spend the funds Congress appropriated, or disburse grants.<sup>76</sup> Further, the remaining employees were instructed to stop many of their in-progress assignments and instead focus on winding down the MBDA.<sup>77</sup>

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<sup>73</sup> Sephora Charles, *Federally-funded WA Business Center Closes This Month, Leaving ‘Huge Void’*, News Trib., (June 29, 2025), <https://www.thenewstribune.com/news/local/article309104500.html>.

<sup>74</sup> Piacsek Decl. ¶ 6.

<sup>75</sup> A. 816.

<sup>76</sup> *Id.*; Piacsek Decl. ¶ 9.

<sup>77</sup> Piacsek Decl. ¶ 9.

In short, dismantling the MBDA would stymie decades of progress and end critical support for small businesses that has returned billions more to the American economy than the funding it received—entirely perverse to the Reduction EO’s stated purpose of eliminating “unnecessary” government functions.<sup>78</sup>

## **II. Gutting the MBDA Would Significantly Harm the Employees Who Carry Out Its Important Mission and Who Have Already Suffered as a Result of the Trump Administration’s Actions.**

Gutting the MBDA also hurts the dedicated civil servants who carry out the important work of the Agency. As explained *supra* pp. 12–14, the federal workforce has long provided individuals with a pathway to the middle class and economic security—especially for Black Americans who often were shut out of the private workforce due to discrimination.<sup>79</sup> Prior to the Reduction EO, the MBDA had around 40 full-time employees,<sup>80</sup> and nearly all were members of an ethnic or racial minority.<sup>81</sup> The Reduction EO particularly impacted Black employees: a supermajority of the people impacted by its resulting RIF were Black and a majority were women.<sup>82</sup>

Even after the MBDA’s employees were reinstated due to the Preliminary Injunction, they faced haphazard treatment while they attempted to perform their

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<sup>78</sup> Reduction EO § 1.

<sup>79</sup> Peñaloza & Wang, *supra* note 47.

<sup>80</sup> A. 816.

<sup>81</sup> Piacsek Decl. ¶ 6.

<sup>82</sup> *Id.*



jobs under the specter of losing their livelihood.<sup>83</sup> These events have caused great harm.<sup>84</sup>

**A. Because of the Reduction EO, employees of the MBDA were removed from their positions in a harsh, expedited, and atypical manner.**

Due to the Reduction EO, MBDA employees were summarily removed from their positions in processes that were an affront to their many years of dedicated government service. Employees were placed on administrative leave, and then subject to RIF notices with impending termination dates, in a rushed manner with little to no explanation.<sup>85</sup> Indeed, the RIF notices sent to employees only provided for thirty days before the termination was scheduled to take effect—one-third of the notice period had been afforded to employees at other agencies like the Department of Education.<sup>86</sup> This timing for removal of MBDA employees also appears to have deviated from typical RIF procedures. By law, a federal employee typically must be given sixty days’ notice before the employee is released.<sup>87</sup> This notice period may be shortened to a minimum of thirty days, but only “because of circumstances not

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<sup>83</sup> *Id.* ¶ 16.

<sup>84</sup> *Id.* ¶ 17.

<sup>85</sup> *Id.* ¶¶ 11–12.

<sup>86</sup> For example, the Department of Education provided 90 days’ RIF notice to employees. U.S. Dep’t of Educ., *U.S. Department of Education Initiates Reduction in Force* (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force>.

<sup>87</sup> 5 U.S.C. § 3502(d)(1).

reasonably foreseeable.”<sup>88</sup> There was no indication in the notice or elsewhere that the circumstances merited an expedited timeline to terminate MBDA employees. In further disregard for these employees and their work, employees were removed from their jobs in the middle of the day, without consideration for pending projects.<sup>89</sup>

**B. The Reduction EO caused the MBDA employees severe harm.**

The Reduction EO harmed the MBDA’s employees, both by upending their careers and subjecting them to mistreatment. The MBDA’s work is important to its employees who are both highly-qualified and deeply invested in what they do.<sup>90</sup> These employees now carry immense concern for themselves as well as for the business owners and communities that the MBDA has long served.<sup>91</sup> Further, because of the Reduction EO and ensuing chaos, some employees with long tenures felt forced to abandon their careers and accept deferred resignation or early retirement, often without a true understanding of such decision.<sup>92</sup> Many of the MBDA’s employees have been disheartened and felt as if their life’s work has been disregarded.<sup>93</sup>

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<sup>88</sup> *Id.* § 3502(e)(1), (e)(3).

<sup>89</sup> Piacsek Decl. ¶ 11.

<sup>90</sup> *Id.* ¶ 18.

<sup>91</sup> *Id.* ¶ 17.

<sup>92</sup> *Id.* ¶¶ 8, 14.

<sup>93</sup> *Id.* ¶ 17.

Even when employees were able to return to work at the MBDA after the Preliminary Injunction, they were mistreated. Initially, the MBDA failed to fully comply with the Preliminary Injunction, and instead only notified select employees to return to work.<sup>94</sup> The MBDA also failed to accept retirement recissions as required by the Preliminary Injunction.<sup>95</sup> Further, those who did return were met with improper working conditions and haphazard treatment. For example, prior to the Reduction EO, the MBDA was housed on the same floor as the Secretary of Commerce.<sup>96</sup> But upon return, employees were relocated to windowless basement spaces.<sup>97</sup> Employees also were suddenly called into meetings with members of the Department of Government Efficiency team, without any prior notice.<sup>98</sup> They also were deprived of appropriate technical support to resume tasks they previously managed.<sup>99</sup> Furthermore, the reduced number of employees returning to the MBDA resulted in some employees performing multiple jobs, without the proper resources to do so.<sup>100</sup>

As a result of the Reduction EO and its aftermath, many MBDA employees have suffered severe personal harms, including health effects, financial strain, and

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<sup>94</sup> *Id.* ¶ 16.

<sup>95</sup> Piacsek Decl. ¶ 16.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

other stresses.<sup>101</sup> Taken together, the profound mistreatment of the MBDA’s workforce has caused them significant harm and undermined their ability to fulfill the agency’s statutory mission. And indeed, the haphazard treatment of these employees only underscores the arbitrary nature of the Reduction EO and the actions taken by the MBDA to effectuate it.

### **III. The Reduction EO Appears to Be Part of the Trump Administration’s Larger Attack on Anything it Deems as “DEI.”**

Finally, the Reduction EO and dismantling of the MBDA appear to be in line with the Trump administration’s broader attack on government programs staffed by or supporting Black people and other protected classes. The targeting of the MBDA and its majority-Black staff, the particularized mistreatment of MBDA employees, and the deviation from standard procedures for personnel actions—coupled with the anti-DEI rhetoric of the Trump Administration—strongly suggests that the Reduction EO is rooted in discrimination rather than any lawful basis.

The Trump Administration’s Reduction EO that placed the MBDA on a short list of government entities targeted for elimination provides no reasoning for the MBDA’s inclusion on the list, other than that the President deems it “unnecessary.”<sup>102</sup> And the Reduction EO with respect to the MBDA is inconsistent with other Trump Administration Executive Orders, in which President Trump

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<sup>101</sup> Piacsek Decl. ¶ 17.

<sup>102</sup> Reduction EO § 2(a).

writes he intends to “dramatically reduce the size of the Federal Government,” in order to “minimize Government waste and abuse, reduce inflation, and promote American freedom and innovation.”<sup>103</sup> In light of the MBDA’s documented economic impact of more than 69 times<sup>104</sup> the cost to fund it last year,<sup>105</sup> it appears unfounded to include MBDA on a list of so-called wasteful agencies.

Instead, targeting the MBDA fits with the Trump Administration’s larger pattern of attacks on so-called DEI and federal employees, particularly at agencies with large Black employee populations. In addition to pointing to DEI as a scapegoat for tragic events,<sup>106</sup> President Trump has made attacking DEI and any programs focused on equity a cornerstone of his Administration. These attacks have targeted Black people and other marginalized people, as well as the federal programs that help marginalized people and enforce civil rights protections.<sup>107</sup> Since January 2025, President Trump has issued a series of Executive Orders targeting so-called DEI. For example, the Executive Order titled “Ending Radical and Wasteful

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<sup>103</sup> Exec. Order No. 14,217, 90 Fed. Reg. 10577 (Feb. 19, 2025).

<sup>104</sup> MBDA, *supra* note 3.

<sup>105</sup> Ngo, *supra* note 2.

<sup>106</sup> David E. Sanger, *Trump Blames D.E.I. and Biden for Crash Under His Watch*, N.Y. Times (Jan. 30, 2025), <https://www.nytimes.com/2025/01/30/us/politics/trump-plane-crash-dei-faa-diversity.html>.

<sup>107</sup> Bianca Flowers & Disha Raychaudhuri, *Trump’s First 100 Days Target Diversity Policies, Civil Rights Protections*, Reuters (Apr. 30, 2025), <https://www.reuters.com/sustainability/society-equity/trumps-first-100-days-target-diversity-policies-civil-rights-protections-2025-04-30/>.

DEI Programs and Preferencing” required federal agencies to terminate “equity-related” grants and contracts, terminate all DEI policies and programs in the federal government, close federal offices related to DEI, and eliminate all relevant federal jobs.<sup>108</sup> And the Executive Order titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity” required federal grantees and contractors to certify that they do not promote DEI programs, and revoked, among other things, President Lyndon Johnson’s Executive Order outlawing employment discrimination by federal contractors and requiring them to ensure equal opportunity.<sup>109</sup>

The Trump Administration also has particularly targeted federal employees it perceives to be associated with DEI. Reports indicate that the Trump Administration is not only terminating federal employees in DEI roles, but federal employees that the Administration somehow associates with DEI.<sup>110</sup> Due to the Administration’s anti-DEI Executive Orders and other efforts to shrink the federal workforce, it is estimated that, as of June 2025, over 100,000 federal employees have been placed

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<sup>108</sup> Exec. Order No. 14,151, 90 Fed. Reg. 8339 (Jan. 20, 2025).

<sup>109</sup> Exec. Order No. 14,173, 90 Fed. Reg. 8633 (Jan. 31, 2025); Brandon Tensley, *How The Cutting of Federal Jobs Puts Black Workers at Risk*, Cap. B News, (Feb. 14, 2025), <https://capitalbnews.org/black-federal-workers-jobs-trump/>.

<sup>110</sup> J. David McSwane, *Dismissed by DEI: Trump’s Purge Made Black Women with Stable Federal Jobs an “Easy Target,”* ProPublica (June 4, 2025), <https://www.propublica.org/article/trump-dei-black-women-minorities-careers-jobs-dismissed>.

on paid administrative leave.<sup>111</sup>

As with the gutting of the MBDA, the Trump Administration's broader efforts to downsize the federal workforce have also focused on agencies with large numbers of minority employees. For example, the staff at the Department of Education, another agency targeted for dismantling, was majority nonwhite before the current Trump Administration, with Black women making up about 28% of the workforce.<sup>112</sup> The Department of Education's staff has now experienced roughly a 50% reduction.<sup>113</sup> Similarly, the United States Agency for International Development, an agency that had a nearly 40% nonwhite staff, has been essentially eliminated.<sup>114</sup> The Trump Administration also has planned or already effectuated drastic cuts at the Department of Housing and Urban Development,<sup>115</sup> Department

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<sup>111</sup> Terry Gerton, *The Outlook for Federal Workers Involuntarily Placed on Administrative Leave*, Fed. News Network (June 25, 2025), <https://federalnewsnetwork.com/workforce/2025/06/the-outlook-for-federal-workers-involuntarily-placed-on-administrative-leave/>. Some of these workers took a deferred resignation option, but it is estimated that about 50% were put on administrative leave involuntarily. *Id.*

<sup>112</sup> McSwane, *supra* note 110.

<sup>113</sup> Sarah Javaid, *Attacks on the Federal Workforce Target Women and People of Color*, Nat'l Women's L. Ctr. (May 2025), <https://nwlc.org/wp-content/uploads/2025/05/Federal-Workforce-FS-5.5.25v2.pdf>.

<sup>114</sup> McSwane, *supra* note 110.

<sup>115</sup> Jennifer Ludden, *As Trump Jettisons Its Staff, HUD Puts Its D.C. Headquarters Up for Sale*, NPR (Apr. 17, 2025), <https://www.npr.org/2025/04/17/nx-s1-5368254/hud-headquarters-d-c-for-sale-scott-turner-doge>.

of Veterans Affairs,<sup>116</sup> Department of the Treasury,<sup>117</sup> and Small Business Administration,<sup>118</sup> which, in addition to the Department of Education, are agencies with some of the highest percentages of Black employees prior to the current Trump Administration.<sup>119</sup> And this Administration's attacks on probationary employees also have a disproportional effect, as people of color represented 46% of these employees.<sup>120</sup>

Dismantling the MBDA also follows a pattern of the Trump Administration's attacks on programs that particularly help Black people and other people of color. For example, the Trump Administration is attempting to dramatically scale back the Small Business Administration's 8(a) program, a federal contracting and training program for socially and economically disadvantaged business owners.<sup>121</sup>

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<sup>116</sup> Michael Embrich, *Trump is Cutting Tens of Thousands of Veterans Affairs Workers*, Rolling Stone (July 9, 2025), <https://www.rollingstone.com/politics/political-commentary/trump-veterans-affairs-cuts-workers-doge-1235381473/>.

<sup>117</sup> Eric Katz, *Treasury Eliminates Offices and Outsources Work, With More Layoffs Coming*, Gov. Exec. (Apr. 10, 2025), <https://www.govexec.com/workforce/2025/04/treasury-eliminates-offices-and-outsources-work-more-layoffs-coming/404472/>.

<sup>118</sup> U.S. Small Bus. Admin., *Small Business Administration Announces Agency-Wide Reorganization* (Mar. 21, 2025), <https://www.sba.gov/article/2025/03/21/small-business-administration-announces-agency-wide-reorganization>.

<sup>119</sup> Javaid, *supra* note 113.

<sup>120</sup> Javaid, *supra* note 113.

<sup>121</sup> Anne Perry & Nikole Snyder, *Trump DEI Executive Orders – Impacts on Small Businesses and Small Business Subcontracting*, Sheppard Mullin: Gov. Conts. & Investigations (Apr. 4, 2025),



Additionally, the Department of Agriculture announced cuts to diversity efforts across 14 programs,<sup>122</sup> including decades-long efforts to support Black and other historically-underserved farmers.<sup>123</sup> And the severe cuts to the federal workforce leave many critical programs supporting disadvantaged Americans with no one to staff them, effectively cutting those programs as well.<sup>124</sup> As just one example, the Department of Health and Human Services laid off all of its staff overseeing its Low Income Home Energy Assistance Program and responsible for setting the federal poverty guidelines that impact Medicaid and SNAP eligibility;<sup>125</sup> Black households are disproportionately impacted by cuts to these resources.<sup>126</sup>

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<https://www.governmentcontractslawblog.com/2025/04/articles/executive-orders/trump-dei-executive-orders-impacts-on-small-businesses-and-small-business-subcontracting/>.

<sup>122</sup> Jess Huff, *Federal DEI Funding Cuts Threaten the Work of the Few Remaining Black Farmers in East Texas*, Tex. Trib. (July 17, 2025), <https://www.texastribune.org/2025/07/17/east-texas-black-farmers-donald-trump/>.

<sup>123</sup> Aallyah Wright, *USDA Ends Key Support for Black Farmers amid Trump Anti-DEI Orders*, Cap. B News (July 17, 2025), <https://capitalbnews.org/usda-ends-dei-policy-black-farmers/>.

<sup>124</sup> Sam Berger & Jacob Leibenluft, *Trump Administration's Mass Layoffs of Federal Workers Are Illegal*, Ctr. on Budget & Pol'y Priorities (May 2, 2025), <https://www.cbpp.org/research/federal-budget/trump-administrations-mass-layoffs-of-federal-workers-are-illegal>.

<sup>125</sup> Brad Plumer, *Entire Staff Is Fired at LIHEAP*, N.Y. Times (Apr. 2, 2025), <https://www.nytimes.com/2025/04/02/climate/trump-layoffs-energy-assistance-liheap.html>; Arthur Allen, *Trump HHS Eliminates Office that Sets Poverty Levels Tied to Benefits for at Least 80 Million People*, CBS News (Apr. 11, 2025), <https://www.cbsnews.com/news/trump-hhs-poverty-levels-medicaid-benefits/>.

<sup>126</sup> Am. Ass'n of Blacks in Energy, *AABE Calls for Urgent Expansion of LIHEAP Funding to Address Rising Energy Burden* (Mar. 7, 2025),

Against this backdrop, the Trump Administration’s targeting of the MBDA and its mistreatment of MBDA’s predominantly-Black workforce reflects a broader pattern of targeting agencies that the Administration associates with DEI, ultimately resulting in purging Black civil servants and programs that support Black and other underserved communities. Again, these actions cannot be explained as part of a natural bureaucratic reorganization—particularly not given the outsized returns that the MBDA provides for the American economy.

## CONCLUSION

The MBDA has an important and impactful history of supporting Black businesses and other MBEs to compete equally and thrive despite the additional hurdles erected by discrimination. And the federal government has long provided opportunities for Black workers and other historically marginalized workers to find meaningful work in public service. Undermining both of these legacies, the Reduction EO threatens American prosperity. The Preliminary Injunction should be affirmed.

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<https://www.aabe.org/index.php?component=news&id=1153>; Ismael Cid-Martinez et al., *Cuts to Medicaid Will Disproportionately Hurt People of Color and Children*, Econ. Pol’y Inst. (Apr. 2, 2025), <https://www.epi.org/blog/medicaid-cuts-will-disproportionately-hurt-people-of-color-and-children/>; Teon Hayes, *Reconciliation Changes to SNAP Would Disproportionately Harm Black and Brown Communities and Families with Low Incomes*, Ctr. for L. & Soc. Pol’y (May 16, 2025), <https://www.clasp.org/blog/reconciliation-changes-to-snap-would-disproportionately-harm-black-and-brown-communities-and-families-with-low-incomes/>.

September 3, 2025

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## CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), I hereby certify that this brief complies with the type-volume limitations of the Court.

In compliance with Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6), the brief has been prepared in proportionally spaced Times New Roman font with 14-point type using Microsoft Word.

In compliance with Federal Rule of Appellate Procedure 32(a)(7)(B), the brief contains 6,465 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and First Circuit Rule 29. As permitted by Federal Rule of Appellate Procedure 32(g), I have relied upon the word count feature of Microsoft Word in preparing this certificate.

September 3, 2025

/s/ Molly M. Cain

Molly M. Cain

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the First Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Molly M. Cain

Molly M. Cain

# **EXHIBIT A**

UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

No. 25-1477

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STATE OF RHODE ISLAND, et al.,

*Appellees,*

v.

DONALD J. TRUMP, in his official capacity, et al.,

*Appellants.*

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**DECLARATION OF YVETTE M. PIACSEK, ESQ.**

Pursuant to 28 U.S.C. § 1746, I, Yvette M. Piacsek, Esq., declare under penalty of perjury that the following is true and correct:

1. I serve as General Counsel for the National Federation of Federal Employees-International Association of Machinists and Aerospace Workers, AFL-CIO (“NFFE”). I am personally familiar with NFFE’s operations and membership and provide this information on the basis of that knowledge.
2. I submit this Declaration in support of NFFE’s amicus curiae brief in support of Appellees in the above-captioned case.
3. Established in 1917, the National Federation of Federal Employees (“NFFE”) is the first and oldest union to represent civil service federal employees, representing approximately 110,000 professional and non-professional federal government workers across the United States. This includes thirty-five current or former

employees of the Minority Business Development Agency (“MBDA”), who were bargaining unit members of NFFE Local 2. NFFE’s mission is to advance the social and economic welfare and education of federal workers, including of its members.

4. For decades, NFFE has litigated cases advocating on behalf of its federal-employee members. *See, e.g., Nat’l Fed’n of Fed. Emps., Loc. 1442 v. Dep’t of the Army*, 810 F.3d 1272 (Fed. Cir. 2015); *Nat’l Fed’n of Fed. Emps. v. Cheney*, 884 F.2d 603, 605 (D.C. Cir. 1989); *Nat’l Fed’n of Fed. Emps. v. Greenberg*, 983 F.2d 286 (D.C. Cir. 1993). NFFE also has participated as amicus curiae to advocate for its members. *See Van Meter v. Barr*, 976 F.2d 1 (D.C. Cir. 1992).

5. In the above-captioned case, NFFE has a strong interest in uplifting the meaningful work of its members at the MBDA and to bring attention to the Trump Administration’s Executive Order (or “Reduction EO”) being challenged in this case, which has had a significant detrimental impact on NFFE’s MBDA members and their work.

6. Prior to the Reduction EO, the MBDA had around 40 full-time employees. Many of the MBDA’s employees (including its NFFE members) carry long tenures of specialized experience, which they have used to work closely with the MBDA’s development centers and small business partners across the country. Further, the MBDA’s workforce is majority-Black, with nearly all being members of a racial or ethnic minority. The MBDA’s work is very important to the NFFE members who



have dedicated themselves to the service of this agency and its mission to advance economic opportunity for all Americans.

7. On March 14, 2025, President Trump issued the Reduction EO at issue in this case, which directed drastic cuts to seven federal entities, including the MBDA.

8. On March 21, 2025, in response to the Reduction EO, the MBDA took action against MBDA employees (including 35 NFFE members), placing nearly all of the employees from MBDA on administrative leave, with little notice and sparse communication. That same day, the MBDA sent NFFE a letter stating its plan to conduct a Reduction-in-Force (or “RIF”) of MBDA employees, specifying that such action would be taken in accordance with the Reduction EO. Soon after, on April 9, 2025, the MBDA issued RIF notices to all NFFE employee members. The MBDA also offered deferred resignation and early retirement options in a manner that felt coercive to employee members. Given the uncertainty around the Reduction EO and Administration’s overall actions related to federal workers, some NFFE members at the MBDA have reported feeling coerced to make quick, final decisions regarding the future of their careers. This resulted in some employees making decisions without thorough deliberation of the consequences of accepting deferred resignation or early retirement. The Reduction EO also particularly harmed Black employees and women: a supermajority of the people impacted by the RIF were Black and a majority were women.

9. After implementation of the Reduction EO's directive, only five employees remained at the MBDA to carry out any of its work. Thus, the Reduction EO resulted in an effective dismantling of the MBDA, particularly because the handful of remaining employees were insufficient to carry out even the MBDA's statutorily mandated functions. Further, the remaining employees were instructed to stop current assignments and instead focus on winding down the MBDA.

10. On May 13, 2025, the District Court preliminarily enjoined the Reduction EO, including with respect to the MBDA. As discussed below, some MBDA employees then were reinstated—but both before and after the issuance of the preliminary injunction in this case, NFFE members employed at the MBDA have suffered tremendous harm because of the MBDA's actions against them.

11. In the period after the Reduction EO but before the preliminary injunction, MBDA employees were summarily removed from their positions—often in the middle of the day, without any notice or consideration for pending projects.

12. These MBDA employees were removed via processes that seemingly did not follow typical RIF procedures. Furthermore, MBDA employees received only 30-days' notice that they would be subject to RIF. There was no indication that the circumstances merited such an expedited timeline. The way in which these cuts were made seems to have paid no regard to these employees' many years of dedicated public service.

13. Also, since November 1, 2022, the MBDA, Department of Commerce, and our NFFE members have been part of a Collective Bargaining Agreement (“CBA”) that imposes certain requirements. It appears that the MBDA’s actions towards employees may not have followed all of the CBA’s requirements, including those related to the notice period and timing.

14. Also because of the chaos and confusion caused by the Reduction EO, some employees with long tenures reported to me that they felt forced to abandon their careers and simply accept deferred resignation or early retirement—often without a true understanding of all the implications of such decisions.

15. After the preliminary injunction was issued, some NFFE members at the MBDA ultimately were reinstated. MBDA now has 17 NFFE member-employees remaining (of the 35 members who worked at the MBDA before the Reduction EO). However, these returning employees have still faced callous treatment and continue to suffer great harm due to the Reduction EO and the MBDA’s actions.

16. Although some NFFE members were able to return to work, they report having been mistreated and disheartened. Initially, the MBDA failed to fully comply with the preliminary injunction order because only a few employees were notified that they could return to work. The MBDA also failed to accept retirement recissions. Further, those who did return were met with improper working conditions. For example, before the Reduction EO, the MBDA was located on the same floor as the

Secretary of Commerce. But upon return, employees were relocated to windowless basement spaces. Employees also were called, without warning, into meetings with senior officials and members of the Department of Government Efficiency team. NFFE employee members also did not have the necessary technical support to return to their tasks. And the reduced number of employees returning to the MBDA after the preliminary injunction resulted in some employees performing multiple jobs, without adequate resources.

17. Understandably, former and current MBDA employees carry immense concern for themselves, their colleagues, and for the business owners and communities that the MBDA has long served. Many of NFFE's members from the MBDA have reported feeling as if their life's work has been disregarded, and that the people they served will face significant harm without the MBDA's programs and staff. And many, too, have reported serious personal harms, including health effects, financial strain, and other stresses, because of the Reduction EO and ensuing impacts.

18. NFFE shares its members' deep concern about the risk that the MBDA—an institution that has served the American people for over half a century—could be dismantled and its important work and expertise could be lost.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 2, 2025.

/s/ Yvette M. Piacsek

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Yvette M. Piacsek, Esq.