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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ALASKA**
8

9 LAUNCH ALASKA,
10 Plaintiff,

11 v.

12 DEPARTMENT OF THE NAVY, OFFICE
13 OF NAVAL RESEARCH,
14 Defendant.

Case No. 3:25-cv-00141-GMS

ORDER

15 Pending before the Court is Defendant Department of the Navy, Office of Naval
16 Research's Motion to Dismiss (Doc. 15) and Plaintiff Launch Alaska's Motion for
17 Preliminary Injunction (Doc. 8). For the reasons below, the Motion to Dismiss (Doc. 15)
18 is denied and the Motion for Preliminary Injunction (Doc. 8) is granted.

19 **BACKGROUND**

20 Plaintiff Launch Alaska ("Launch Alaska") is an Alaska nonprofit corporation that
21 aims to "spur innovation, develop and scale infrastructure and energy technology solutions,
22 and support deployment of these ideas and technologies in challenging environments."
23 (Doc. 1 at 2). In September 2022, Defendant Department of the Navy, Office of Naval
24 Research ("ONR"), awarded Launch Alaska a grant of \$4,999,860, to be paid out from
25 October 1, 2022 through September 30, 2027. (Doc. 1 at 8). ONR twice modified the
26 grant to reflect incremental payments made to Launch Alaska: first, on March 30, 2023,
27 reflecting a payment of \$1,000,000, and second, on November 24, 2023, reflecting a
28 payment of \$2,999,860. (Doc. 1 at 9). As part of the grant modification on November 24,

1 ONR revised the Terms and Conditions to include language that permits ONR to
2 unilaterally terminate the grant if “the award no longer effectuates the program goals or
3 agency priorities.” (Doc. 1 at 9).

4 On April 30, 2025, an ONR grants officer notified Launch Alaska that its grant was
5 terminated, “as it no longer effectuates the program goals or agency priorities as set forth
6 in SECDEF MEMO dated March 20, 2025.” (Doc. 1 at 10; Doc. 1-5 at 1). On May 1,
7 2025, Launch Alaska filed a Notice of Claim or Appeal pursuant to DoD R&R General
8 Terms and Conditions. (Doc. 1 at 11; Doc. 1-7). Launch Alaska asserted that because the
9 Notice of Termination failed to provide any information as to how or why the grant no
10 longer effectuated program goals or agency priorities, the termination violated federal
11 regulation governing the termination of federal awards, 2 C.F.R. §§ 200.340(a)(4),
12 200.341(a), and the Administrative Procedure Act (“APA”). (Doc. 1 at 11; Doc. 1-7).

13 On June 12, 2025, the Grant Appeal Authority issued a final administrative decision,
14 declining to rescind ONR’s termination of the grant. (Doc. 1 at 11-12; Doc. 1-8). The
15 Appeal Authority reasoned that the APA does not apply to the termination of Launch
16 Alaska’s grant and that the grant officer’s reason for termination was sufficient to comply
17 with federal regulation. (Doc. 1-8 at 3).

18 On July 3, 2025, Launch Alaska filed a Motion for Preliminary Injunction against
19 ONR, asking this Court to order ONR to rescind its termination of the grant award. (Doc.
20 8 at 16). ONR filed a Motion to Dismiss on July 21, 2025. (Doc. 15). The Court held a
21 hearing on the motions on August 1, 2025. For the following reasons, the Court denies
22 ONR’s Motion to Dismiss (Doc. 15) and grants Launch Alaska’s Motion for Preliminary
23 Injunction (Doc. 8).

24 **ONR’S MOTION TO DISMISS**

25 **I. Legal Standard**

26 Federal Rule of Civil Procedure 12(b)(1) requires the Court to dismiss an action if
27 the Court lacks subject matter jurisdiction over the suit. Fed. R. Civ. P. 12(b)(1). When
28 considering a motion to dismiss for lack of subject-matter jurisdiction, the Court takes as

1 true the material facts alleged in the complaint. *See Whisnant v. United States*, 400 F.3d
2 1177, 1179 (9th Cir. 2005). The Court may also consider affidavits or any other evidence
3 necessary to resolve any factual disputes concerning the existence of jurisdiction. *Colwell*
4 *v. Dep’t of Health and Hum. Servs.*, 558 F.3d 1112, 1121 (9th Cir. 2009). If a defendant
5 attacks the existence of subject-matter jurisdiction under Rule 12(b)(1), the plaintiff bears
6 the burden of proving jurisdiction exists. *Thornhill Pub. Co., Inc. v. Gen. Tel. & Elecs.*
7 *Corp.*, 594 F.2d 730, 733 (9th Cir. 1979).

8 **II. Discussion**

9 ONR moves to dismiss for lack of jurisdiction. (Doc. 15 at 2). Relying on
10 *Department of Education v. California*, 145 S. Ct. 996 (2025), ONR asserts that because
11 Launch Alaska asks the Court to order ONR to pay Launch Alaska pursuant to contractual
12 agreements between Launch Alaska and the federal government, the case must be heard in
13 the Court of Federal Claims under the Tucker Act. (Doc. 15 at 5).

14 The Tucker Act grants the United States Court of Federal Claims original
15 jurisdiction to “render judgment upon any claim against the United States founded . . . upon
16 any express or implied contract with the United States.” *Grondal v. United States*, 37 F.4th
17 610, 619 (9th Cir. 2022) (quoting 28 U.S.C. § 1491(a)(1)). The Court of Federal Claims
18 has exclusive jurisdiction over claims for more than \$10,000 in damages against the United
19 States. *Id.* However, “[g]enerally speaking, the Tucker Act does not permit the Court of
20 Federal Claims to grant equitable or declaratory relief, . . . [and due] to this limited remedial
21 authority, a contract-based action falls within the scope of the Tucker Act only if the
22 plaintiff seeks money damages for the breach of a government contract.” *United*
23 *Aeronautical Corp. v. U.S. Air Force*, 80 F.4th 1017, 1026 (9th Cir. 2023). Further, “the
24 Tucker Act yields . . . when the Administrative Procedure Act provides an avenue for
25 relief.” *Me. Cmty. Health Options v. United States*, 590 U.S. 296, 323-24 (2020).

26 In recent cases, “courts have considered claims challenging the termination of
27 grants, presenting questions about whether the claims are properly asserted under the
28 [Administrative Procedure Act (“APA”)] in federal district courts or must proceed in the

1 Court of Federal Claims under the Tucker Act.” *American Gateways, et al., v. U.S. Dept.*
2 *of Just., et al.*, No. 25-01370, 2025 WL 2029764, at *6 (D.D.C. July 21, 2025) ((citing
3 *Harris Cnty. v. Kennedy*, No. 25-cv-1275, 2025 WL 1707665, at *12-14 (D.D.C. June 17,
4 2025) (collecting cases that “have grappled with whether the Tucker Act divests district
5 courts of jurisdiction in a raft of grant-termination cases”)). Because in many of these cases
6 “plaintiffs’ challenges and claims for relief have entailed the reinstatement of particular
7 grant instruments—contracts—courts have had to consider whether the claim at issue is, in
8 fact, a challenge to agency policy (and therefore properly reviewed under the APA) or is
9 ‘at its essence contractual’ (in which case, the Tucker Act requires that the claim proceed
10 through the Court of Federal Claims).” *Id.* (quoting *Crowley Gov’t Servs. v. GSA*, 38 F.4th
11 1099, 1102 (D.C. Cir. 2022)).

12 The Ninth Circuit relies on a two-part test, derived from the D.C. Circuit’s decision
13 in *Megapulse, Inc. v. Lewis*, 672 F.2d 959 (D.C. Cir. 1982), to determine whether an APA
14 action seeking injunctive relief is “a disguised breach-of-contract claim” that must be heard
15 in the Court of Federal Claims. *United Aeronautical Corp.*, 80 F.4th at 1026 (9th Cir.
16 2023) (citing *Megapulse, Inc.*, 672 F.2d at 968). The test requires that the court look to
17 “(1) the source of the rights upon which the plaintiff bases its claims and (2) the type of
18 relief sought (or appropriate).” *Id.*

19 **a. Source of the Rights**

20 As to the first prong, “[i]f rights and remedies are statutorily or constitutionally
21 based, then district courts have jurisdiction; if rights and remedies are contractually based
22 then only the Court of Federal Claims [has jurisdiction].” *Cnty. Legal Servs. in E. Palo*
23 *Alto v. U.S. Dep’t of Health and Hum. Servs.*, 137 F.4th 932, 937-38 (9th Cir. 2025)
24 (quoting *United Aeronautical Corp.*, 80 F.4th at 1026). “The Tucker Act does not bar an
25 APA action if the plaintiff’s rights and remedies, as alleged, are noncontractual—even if it
26 is inevitable that the government will raise a contract provision as a defense.” *United*
27 *Aeronautical Corp.*, 80 F.4th at 1026. Here, Launch Alaska seeks to enforce compliance
28

1 with the APA—federal regulation and statute, not a government contract.¹ (See Doc. 8-6
2 at 2) (“It is Launch Alaska’s position that the Notice of Termination therefore fails to
3 comply with 2 C.F.R. §§ 200.340(a)(4) and 200.341(a). Failure to identify proper reasons
4 for termination of the Award also violates the Administrative Procedure Act.”).

5 As ONR, itself, explained in its administrative decision on Launch Alaska’s appeal,
6 “Launch Alaska asserts that the manner by which ONR terminated the grant violated the
7 Administrative Procedures Act, 5 U.S.C. § 706(2)(A) (APA), and that ONR did not comply
8 with the notice requirements of 2 C.F.R. § 200.341(a).” (Doc. 8-7 at 3). The source of this
9 claim does not arise in a contract, but instead in the APA’s provisions forbidding arbitrary
10 and capricious action. See *Colorado v. U.S. Dep’t of Health and Hum. Servs.*, No. 1:25-
11 cv-00121, 2025 WL 1426226, at *8 (D.R.I. May 16, 2025) (source of the States’s rights to
12 seek injunctive relief against HHS for grants terminated in violation of the APA turns on
13 federal statutes and regulations put in place by Congress and HHS); see also
14 *Woonasquatucket River Watershed Council v. U.S. Dep’t of Agric.*, No. 1:25-cv-00097,
15 2025 WL 1116157, at *13 (D.R.I. April 15, 2025) (source of nonprofits’ rights to seek
16 injunctive relief against agencies for freezing grant funds in violation of the APA is federal
17 law rather than contract law). As an illustration of this, ONR’s Grant Appeal Authority
18 examined the text of federal regulation § 200.341(a), not the terms of the grant, to
19 determine whether the grant officer’s termination notice of Launch Alaska’s grant was
20 sufficient.² ONR’s briefing of Launch Alaska’s APA claim further illustrates this point.
21 (See Doc. 15 at 13-15). To assert that the grant awarded to Launch Alaska was “terminated
22 pursuant to recognized termination authorities and in compliance with the terms permitting
23 such terminations,” ONR relied on 2 C.F.R. § 300.340(a)—federal regulation that governs
24 the termination of federal awards. (See *id.*).

25 ¹ “Regulations, properly promulgated, have the force and effect of law.” *Sager v. McHugh*,
26 942 F.Supp.2d 1137, 1142 n.1 (W.D. Wash. 2013) (citing *United States v. Nixon*, 418 U.S.
683, 695 (1974)).

27 ² The Grant Appeal Authority did not substantively consider Launch Alaska’s APA claims
28 because it held that the appeal “is in substance akin to a claim that the government
unreasonably terminated a procurement contract for the government’s convenience, which
would be a matter under the Contract Disputes Act (CDA)” in the Court of Federal Claims.
(Doc. 8-7 at 3) (citing *Dep’t of Educ. v. California*, 145 S. Ct. 966 (2025)).

1 Of course, the grant necessitates an underlying contractual relationship between
2 Launch Alaska and ONR. “But the mere fact that a court may have to rule on a contract
3 issue does not, by triggering some mystical metamorphosis, automatically transform an
4 action based on [statute] into one on the contract and deprive the court of jurisdiction it
5 might otherwise have.” *Megapulse, Inc.*, 672 F.2d at 968; *see Robbins v. U.S. Bureau of*
6 *Land Mgmt.*, 438 F.3d 1074, 1083-84 (10th Cir. 2006) (“[L]itigants may bring statutory
7 and constitutional claims in federal district court even when the claims depend on the
8 existence and terms of a contract with the government.”).

9 **b. Type of Relief Sought**

10 As to the second prong, “[i]f the relief sought is ‘akin to the traditional remedies
11 available for breach of contract (damages or specific performance),’ the Tucker Act
12 applies, and Plaintiffs’ claims belong in the Court of Federal Claims.” *Martin Luther King,*
13 *Jr. Cnty. v. Turner*, No. 2:25-cv-814, 2025 WL 1582368, at *10 (W.D. Wash. June 3, 2025)
14 (quoting *United Aeronautical Corp.*, 80 F.4th at 1026). However, the “fact that a judicial
15 remedy may require one party to pay money to another is not a sufficient reason to
16 characterize the relief as ‘money damages.’” *Bowen v. Massachusetts*, 487 U.S. 879, 893
17 (1988). A court’s order “for the payment of money must not be confused with the question
18 whether such payment, in these circumstances, is a payment of money as damages or as
19 specific relief.” *Id.* at 900.

20 Here, Launch Alaska asks the Court to order ONR to rescind its termination of the
21 grant because ONR failed to apply proper procedure under the APA; in other words,
22 Launch Alaska asks the Court to set aside the termination until the government reconsiders
23 the termination in the appropriate manner. (Doc. 8 at 16). This is a request for specific
24 relief and beyond the jurisdiction of the Court of Federal Claims. *See Bowen*, 487 U.S. at
25 910 (holding that orders for specific relief rather than for money damages are within the
26 District Court’s jurisdiction under § 702’s waiver of sovereign immunity). As Launch
27 Alaska asserts, the requested relief would prevent ONR from terminating Launch Alaska’s
28 grant “for the unlawful reasons challenged in this lawsuit.” (Doc. 17 at 15). “An order

1 vacating the termination on [the basis that the government failed to follow its own
2 procedures]—together with an order requiring the government not to commit those
3 procedural violations again—would leave the government free to reconsider the
4 termination so long as it does so in a procedurally appropriate manner.” *Porwancher v.*
5 *Nat’l Endowment of the Humans.*, 2025 WL 2097740, at *4 (D.D.C. July 25, 2025).

6 **c. *Department of Education v. California***

7 ONR argues that the U.S. Supreme Court’s recent stay order in *Department of*
8 *Education v. California*, 604 S. Ct. 996 (2025), necessitates that Launch Alaska’s claims
9 be brought in Federal Claims Court. (Doc. 15 at 7-9). Indeed, on a similar set of facts, the
10 Supreme Court stayed a district court’s temporary restraining order “enjoining the
11 Government from terminating various education-related grants . . . [and] requir[ing] the
12 Government to pay out past-due grant obligations and to continue paying obligations as
13 they accrue” because “the Government is likely to succeed in showing the District Court
14 lacked jurisdiction to order the payment of money under the APA.” *California*, 604 S. Ct.
15 at 968.

16 As an initial matter, Launch Alaska does not ask the Court to order ONR to pay out
17 past-due grant obligations or to make a payment. Rather, Launch Alaska asks the Court to
18 enjoin the termination of the grant award, which Launch Alaska asserts was terminated in
19 violation of the APA. Launch Alaska acknowledges that, even under such an injunction,
20 ONR would continue to have the right to terminate Launch Alaska’s grant, if it did so
21 following mandated procedures. Thus, Launch Alaska’s request is not necessarily one for
22 money. And, in any event, as the Supreme Court affirmed in *California*, “a district court’s
23 jurisdiction ‘is not barred by the possibility’ that an order setting aside an agency’s action
24 may result in the disbursement of funds.” 604 S. Ct. at 968 (quoting *Bowen*, 487 U.S. at
25 910).

26 Unresolved, in the wake of *California*, is when a district court’s order to enjoin the
27 termination of a grant award is an order to set aside potentially unlawful agency action or
28 is an order “‘to enforce a contractual obligation to pay money.’” *See California*, 604 S. Ct.

1 at 968 (quoting *Great-West Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204, 212 (2002)).
2 A distinction between *California* and *Bowen* is that “*Bowen* involved a statutory grant of
3 Medicaid funds made by Congress, rather than grant agreements made with executive-
4 branch agencies.” *Harris Cnty., Tex. v. Kennedy*, No. 25-cv-1275, 2025 WL 1707665, at
5 *15 (D.D.C. June 17, 2025). However, “[p]erhaps that distinction should not be legally
6 significant, [as] the Supreme Court has repeatedly characterized Spending Clause
7 legislation like Medicaid as much in the nature of a contract.” *Id.* (citations omitted)
8 (cleaned up).

9 The Court “is not positioned to disregard *Bowen* and its progeny, even if it appears
10 that it is now in tension with *California*.” *Colorado*, 2025 WL 1426226, at *9 (citing
11 *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 136 (2023) (explaining that district courts
12 “should follow the case which directly controls, leaving to [the Supreme] Court the
13 prerogative of overruling its own decisions.”)). “[This] is true even if the lower court
14 ‘thinks the precedent is in tension with some other line of decisions’—or here, rather than
15 an entire competing ‘line of decisions,’ a single three-page *per curiam* order granting a
16 stay.” *Woonasquatucket River Watershed Council*, 2025 WL 1116157, at *15 (quoting
17 *Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J., concurring) (“The stay will
18 allow this Court to decide the merits in an orderly fashion—after full briefing, oral
19 argument, and our usual extensive internal deliberations—and ensure that we do not have
20 to decide the merits on the emergency docket. To reiterate: The Court’s stay order is not a
21 decision on the merits.”)).

22 “Absent clear guidance from the Supreme Court that *Bowen* and its progeny are no
23 longer good law, the Court follows [] well-established precedent in concluding the APA
24 has waived the United States’ sovereign immunity on this case . . . inclusive of the fact
25 that, in the event the Plaintiff prevails, the requested [injunction] will likely result in
26 monetary payments.” *Maine v. U.S. Dept. of Agric.*, No. 1:25-cv-00131, 2025 WL
27 1088946, at *19 n.8 (D. Maine April 11, 2025).

28 For the reasons stated above, this Court has jurisdiction pursuant to *Bowen*, 487 U.S.

1 879, and its progeny, and ONR does not raise additional grounds for dismissal. As such,
2 ONR's Motion to Dismiss (Doc. 15) is denied.

3 **LAUNCH ALASKA'S MOTION FOR PRELIMINARY INJUNCTION**

4 **I. Legal Standard for Injunctive Relief**

5 "A party seeking injunctive relief under Rule 65 of the Federal Rules of Civil
6 Procedure must show that: (1) [it] is likely to succeed on the merits; (2) [it] is likely to
7 suffer irreparable harm in the absence of injunctive relief; (3) the balance of equities tips
8 in [its] favor; and (4) an injunction is in the public interest." *Patel-Hasmukhbhai v. Barr*,
9 No. CV-20-01121, 2020 WL 13544980, at *2 (D. Ariz. June 8, 2020) (citing *Winter v. Nat.*
10 *Res. Def. Couns., Inc.*, 555 U.S. 7, 20 (2008)). When the government is the opposing party,
11 the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The movant
12 must make "a certain threshold showing . . . on each factor." *Leiva-Perez v. Holder*, 640
13 F.3d 962, 966 (9th Cir. 2011). Injunctive relief is "an extraordinary and drastic remedy,
14 one that should not be granted unless the movant, by a clear showing, carries the burden of
15 persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012).

16 **II. Analysis**

17 **a. Likelihood of Success on the Merits**

18 **i. Jurisdiction**

19 As an initial matter, Launch Alaska is likely to succeed in establishing that the Court
20 has jurisdiction over its claim. ONR argues that Launch Alaska's APA claim is foreclosed
21 because Launch Alaska is not challenging a final agency action. (Doc. 15 at 9). Indeed,
22 the final agency action requirement, 5 U.S.C. § 704, has been treated as jurisdictional in
23 the Ninth Circuit. *S.F. Herring Ass'n v. Dept. of the Interior*, 946 F.3d 564, 571 (9th Cir.
24 2019).

25 Two conditions must be satisfied for agency action to be final under the APA: first,
26 "the action must mark the 'consummation' of the agency's decisionmaking process—it
27 must not be of a merely tentative or interlocutory nature," and second, "the action must be
28 one by which rights or obligations have been determined, or from which legal

1 consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (internal
2 quotations omitted). ONR’s “Decision on Appeal of Termination of Grant N00014-22-1-
3 2844 to Launch Alaska” was a final agency action under the APA. (Doc. 8-7). As to the
4 first condition, ONR’s Decision on Appeal “marks the consummation of the agency’s
5 decisionmaking process,” *see Bennett*, 520 U.S. at 177-78, as it was “the Grant Appeal
6 Authority’s final administrative decision . . . and [could] not be further appealed within
7 DoD.” (Doc. 8-7 at 4). The second prong is satisfied when the nature of the administrative
8 action “gives rise to direct and appreciable legal consequences.” *U.S. Army Corps of*
9 *Eng’rs v. Hawkes Co., Inc.*, 578 U.S. 590, 598 (2016). As a direct consequence of the
10 termination letter and ONR’s Decision on Appeal, ONR will not fund the remainder of its
11 grant to Launch Alaksa. Accordingly, the grant termination was likely a final agency
12 action for the purposes of the APA.

13 **ii. Agency Discretion**

14 ONR argues that this Court has no authority to review ONR’s termination of the
15 grant because an agency’s determination of how to allocate appropriated funds is
16 unreviewable, discretionary agency action. (Doc. 15 at 12) (citing *Lincoln v. Vigil*, 508
17 U.S. 182, 193 (1993)). However, ONR misstates the issue before the Court. The Court is
18 not reviewing whether the grant continues to effectuate ONR’s goals or agency priorities.
19 Rather, the issue before the Court is whether ONR followed the requirements of 2 C.F.R.
20 § 200.340 and § 200.341, or whether ONR’s termination was arbitrary and capricious. At
21 oral argument, counsel for ONR testified that it terminated one grant, terminated one
22 grantee, and offered a single reason for that termination. This is not, in fact, what ONR
23 did. In the only notice Launch Alaska received, ONR terminated the grant pursuant to a
24 Secretary of Defense memorandum, which discussed presumably many unidentified grants
25 to terminate for many listed reasons. (Doc. 8-5 at 1). Further, during oral argument,
26 counsel for ONR testified that Launch Alaska’s grant was terminated for fraud, waste,
27 abuse, and/or the need to cut back. Although federal regulation does not require much
28 explanation for why a grant no longer effectuates agency goals or priorities, it requires

1 more than a generic, litany of reasons which may or may not apply to any number of grant
2 terminations which are not specified, but all of which presumably are encompassed in the
3 same memorandum. In these circumstances, such a termination is arbitrary and capricious
4 as it applies to Launch Alaska and fails to comply with regulatory requirements. Because
5 this is not a review of why ONR terminated Launch Alaska's grant, but rather of whether
6 ONR provided a reason for doing so, this is not an issue of agency discretion.

7 **iii. APA Claim**

8 Launch Alaska is likely to prevail on the merits of its claim that ONR violated the
9 APA by acting in an arbitrary and capricious manner when it terminated the grant. (Doc.
10 8 at 8).

11 The APA "sets forth the procedures by which federal agencies are accountable to
12 the public and their actions subject to review by the courts." *Dep't of Homeland Sec. v.*
13 *Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020) (internal quotations omitted).
14 Specifically, courts have jurisdiction to review "final agency action for which there is no
15 other adequate remedy in a court." 5 U.S.C. § 704. The "arbitrary-and-capricious standard
16 requires that agency action be reasonable and reasonably explained." *Fed. Commc'ns*
17 *Comm'n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). "Judicial review under
18 that standard is deferential, and a court may not substitute its own policy judgment for that
19 of the agency." *Id.*

20 In considering whether an action was arbitrary and capricious, a court must consider
21 only whether the agency's decision "was based on a consideration of the relevant factors
22 and whether there has been a clear error of judgment." *Dept. of Homeland Sec.*, 591 U.S.
23 at 16. "[T]he agency must examine the relevant data and articulate a satisfactory
24 explanation for its action including a 'rational connection between the facts found and the
25 choice made.'" *Motor Vehicle Mfr. Ass'n of the U.S., Inc. v. State Farm Mutual Auto. Ins.*
26 *Co.*, 463 U.S. 29, 43 (1983). A Court may not "infer an agency's reasoning from mere
27 silence." *Arrington v. Daniels*, 516 F.3d 1106, 1112 (9th Cir. 2008). The Court has the
28 equitable power to set aside agency action if the action was arbitrary, capricious, or

1 contrary to law. *Nw. Env't Def. Center v. Bonneville Power Admin.*, 477 F.3d 668, 680
2 (9th Cir. 2007).

3 Launch Alaska provides sufficient evidence to suggest that ONR's termination of
4 its grant was done in an arbitrary and capricious manner. ONR argues that its actions were
5 consistent with all applicable law and were neither arbitrary nor capricious. (Doc. 15 at 9).
6 As evidence that ONR's decision to terminate was "reasonable and reasonably explained,"
7 ONR points to the sentence in its termination letter that states that the grant was "terminated
8 in its entirety as it no longer effectuates the program goals or agency priorities as set forth
9 in SECDEF MEMO dated March 20, 2025." (Doc. 15 at 15). Certainly, if that was in fact
10 the reason for the termination, the executive branch is afforded much, if not complete,
11 deference in making such determinations. However, ONR made no specific mention of
12 Launch Alaska in the memorandum, which included many reasons for termination and
13 presumably was intended to cancel many grants. In ONR's Decision on Appeal, ONR
14 highlighted the provision of the Secretary of Defense Memorandum that terminated grants
15 "in areas of Diversity, Equity, and Inclusion and related social programs, climate change,
16 social science, Covid-19 pandemic response, and other areas," but, again, failed to consider
17 any facts specific to Launch Alaska in concluding that Launch Alaska's grant was "not
18 aligned with DoD priorities." (Doc. 8-7 at 2-3). Consequently, ONR failed to provide "a
19 rational connection between any facts found," of which there were none, and "the choice
20 made." *See Motor Vehicle Mfr. Ass'n of the U.S.*, 463 U.S. at 43. ONR accurately states
21 that "the APA does not require ONR to maintain grants that no longer effectuates its
22 priorities," (Doc. 15 at 14), but should ONR terminate a grant, it must do so "to the extent
23 authorized by law, if an award no longer effectuates the program goals or agency
24 priorities." 2 C.F.R. § 200.340(a)(4). Launch Alaska is likely to prevail on its assertion
25 that ONR terminated its grant in violation of the APA.

26 **b. Irreparable Harm**

27 The Court next considers whether Launch Alaska is likely to suffer irreparable harm
28 in absence of injunctive relief. Plaintiffs seeking preliminary relief must "demonstrate that

1 irreparable injury is likely in the absence of an injunction.” *Winter v. Nat. Res. Def.*
2 *Council, Inc.*, 555 U.S. 7, 22 (2008). “Irreparable harm is traditionally defined as harm for
3 which there is no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act*
4 *Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014). “[I]t is well-established that acts by
5 Government agencies in derogation of statutory rights of the public or certain individual
6 members of the public can constitute irreparable injury.” *Kirwa v. U.S. Dep’t of Def.*, 285
7 F.Supp.3d 21, 42 n.22 (D.D.C. Oct. 25, 2017) (quoting *Gates v. Schlesinger*, 366 F.Supp.
8 797, 800 (D.D.C. Oct. 10, 1973)). Here, Launch Alaska alleges facts sufficient to
9 demonstrate that ONR likely terminated its grant in violation of federal statute and the
10 APA, constituting irreparable injury. ONR’s argument that this case is about funding and
11 that appropriate recovery may be sought in the Court of Federal Claims, (*see* Doc. 15 at
12 16-17), fails to persuade.

13 Accordingly, Launch Alaska has shown a likelihood of irreparable harm.

14 **c. Balance of Equities and Public Interest**

15 Finally, the Court considers whether the balance of equities tips in Launch Alaska’s
16 favor and whether injunctive relief is in the public interest. “[W]hen a party seeks a
17 preliminary injunction against the government, as is the case here, the balance of the
18 equities and public interest factors merge.” *Chamber of Com. of the U.S. of America v.*
19 *Bonta*, 62 F.4th 473 (9th Cir. 2023).

20 Here, should the Court issue an injunction, Launch Alaska would be in a position to
21 maintain its grant subject to a lawful termination, bringing clarity to Launch Alaska and to
22 individuals involved in Launch Alaska’s research and programming. *See City & Cnty. of*
23 *S.F. v. Trump*, 897 F.3d 1225, 1244 (9th Cir. 2018) (holding that an injunction that brings
24 clarity to the parties and citizens dependent on the services at issue is in the public interest).
25 ONR asserts that should the grant be reinstated pending final resolution of the case, ONR
26 would be unlikely to recover the grant funds once they are disbursed. (Doc. 15 at 17)
27 (citing *California*, 145 S. Ct. at 969). However, unlike *California*, in which the
28 respondents did not refute the government’s representation that it was unlikely to recover

1 dispersed grant funds, here, Launch Alaska notes that it “is only entitled to receive grant
2 funds that comply with all eligibility requirements under the Grant Award’s terms and
3 conditions” and that “ONR must separately approve every invoice for payment.” (Doc. 18
4 at 9). In fact, Launch Alaska acknowledges that “there is no chance that any future
5 payments will be made to Launch Alaska without ONR’s contemporaneous approval.”
6 (*Id.*). Further, unlike in *California*, Launch Alaska has not “represented in this litigation
7 that they have the financial wherewithal to keep their programs running.” *See California*,
8 145 S. Ct. at 969. Although ONR has rightly noted that the “public has an interest in the
9 judiciary respecting the Executive Branch’s ability to lawfully direct and guide agencies’
10 spending decisions,” (Doc. 15 at 18), Launch Alaska has demonstrated a likelihood of
11 success on its claim that ONR did not act lawfully in terminating its grant. There is no
12 public interest in the violation of federal law. *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006,
13 1029 (9th Cir. 2013) (holding that “it would not be equitable or in the public’s interest to
14 allow the state . . . to violate the requirements of federal law”).

15 As such, the irreparable harms Launch Alaska faces in the absence of an injunction
16 tip the balance of equities in its favor.

17 **d. Bond**

18 Federal Rule of Civil Procedure 65(c) provides that a court may issue a preliminary
19 injunction “only if the movant gives security in an amount that the court considers proper
20 to pay the costs and damages sustained by any party found to have been wrongfully
21 enjoined or restrained.” Fed. R. Civ. P. 65(c). A district court “may dispense with the
22 filing of a bond when it concludes there is no realistic likelihood of harm to the defendant
23 from enjoining his or her conduct.” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir.
24 2009). Here, the likelihood of harm to ONR from enjoining its conduct is presumably low
25 because neither party raised the issue in the briefing. Further, considering the limited scope
26 of the injunction, the equities in this case favor no bond.

27 **e. Conclusion**

28 At this stage of the proceedings, Launch Alaska has demonstrated that it has a

1 likelihood of success on the merits of its APA claim, irreparable harm is probable absent a
2 preliminary injunction, the balance of hardships tips in its favor, and injunctive relief is in
3 the public's interest. Accordingly, Launch Alaska's Motion for a Preliminary Injunction
4 (Doc. 8) is granted. ONR is preliminarily enjoined from treating Launch Alaska's grant as
5 terminated. ONR is further preliminarily enjoined from future actions regarding Launch
6 Alaska's grant unless it complies with the procedural requirements contained in 2 C.F.R.
7 §§ 200.340(a)(4) and 200.341(a) and the APA.


8 Accordingly,

9 **IT IS THEREFORE ORDERED** that Defendant Department of the Navy, Office
10 of Naval Research's Motion to Dismiss (Doc. 15) is **denied**.

11 **IT IS FURTHER ORDERED** that Plaintiff Launch Alaska's Motion for a
12 Preliminary Injunction (Doc. 8) is **granted**.

13 **IT IS FURTHER ORDERED** that Defendant Department of the Navy, Office of
14 Naval Research is preliminarily enjoined from treating Plaintiff Launch Alaska's grant as
15 terminated. Defendant is further preliminarily enjoined from future actions regarding
16 Launch Alaska's grant unless it complies with the procedural requirements contained in 2
17 C.F.R. §§ 200.340(a)(4) and 200.341(a) and the APA.

18 Dated this 5th day of August, 2025.

19 
20 G. Murray Snow
21 Senior United States District Judge
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