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DATE: January 19, 2026

TO: Mayor and Mankato City Council
Susan Arntz, Mankato City Manager

FROM: Pamela Whitmore, City Attorney

RE: Review for Discussion of Possible Regulations/Management on ICE activities

This memo responds to the Council’s request to provide information regarding what, if anything, a city can do to manage U.S. Immigration and Customs Enforcement (ICE) activity. Additionally, this memo intends to provide written guidance regarding the rights of city officials and employees related to ICE or other federal immigration enforcement agencies’ requests for information or presence on city property.

Can ICE be on City Owned Property?

ICE can enter publicly accessible areas of businesses without a warrant, as these are considered public spaces with no reasonable expectation of privacy under the Fourth Amendment; however public employees of local jurisdiction, including local law enforcement, do not need to assist ICE agents in locating individuals and do not need to allow ICE access to nonpublic areas of city property. Simply, local governments do not enforce federal immigration laws, however they cannot interfere with federal enforcement in its own enforcement. *See Printz v. United States*, 521 U.S. 898, 934 (1977); 8 U.S.C. § 1373. Employees, elected officials, and appointed officials may be subject to prosecution by the federal government if they obstruct or interfere with ICE’s actions or agents, hide individuals or employees, or assist them in evading the search.

Does the City have to help ICE arrest or detain?

No, local governments are not obligated to enforce federal immigration laws. If the local government knows that a person previously had been convicted of a felony in the U.S. and, after the conviction, was deported or left the country, then the local government may choose to assist with federal enforcement under 8 U.S.C. § 1252c by arresting and detaining the noncitizen who is in the U.S. unlawfully. Under this statute, the law enforcement officers must confirm the noncitizen’s immigration status with federal immigration officials prior to making the arrest and the individual may only be held until federal immigration authorities take them into custody.

Does the City have to provide data to ICE?

If ICE has requested immigration status, then yes, but only immigration status data is required. 8 U.S.C. § 1373(a) represents the federal statute that prohibits local and state governments and agencies from enacting laws or policies that limit communication with DHS about “information regarding the immigration or citizenship status” of individuals. Section 1373 does not require

local or state agencies, officers, or governments to proactively collect and report data, and, as a result, does not prohibit those local jurisdictions from adopting policy regarding not asking individuals about their immigration status. Additionally, the Minnesota State Driver's License law prohibits the dissemination of information about cardholders and applicants to federal agencies that enforce immigration law, except pursuant to a valid search warrant or court order.

Can local jurisdictions, their employees and officials, be prosecuted under federal law for interfering with federal ICE process?

Yes, the federal government has cited a number of federal statutes regarding possible prosecution for interfering with ICE. Also worth noting, President Trump has stated local governmental entities considered sanctuary cities, counties or states, will not receive federal funding.¹

First, committing any assault against a federal officer represents a crime under 18 U.S. Code § 111. A simple assault *does not always* require physical contact between the perpetrator and the federal agent. This means someone can commit an assault without ever touching the officer. Depending on the circumstances and the severity of the alleged assault, this crime may be prosecuted as a misdemeanor or felony, with significant penalties if convicted. This federal law covers different types of offenses, such as simple assault, serious assault without a weapon, and serious assault with a dangerous or deadly weapon. Simple assault involves not only forcibly assaulting, but also resisting, opposing, impeding, intimidating, or interfering with federal officers in performing their duties.

Next, obstructing justice represents a federal offense under 18 U.S.C. § 1503 or §1501 which generally has been invoked when an individual engages in intentional actions that corruptly interfere with judicial proceedings (§1503) or in the service of a writ, legal process, or warrant (§1501). Violations may result in severe penalties, including a maximum imprisonment of ten years and substantial fines. The prosecution must establish the defendant's intent, which distinguishes criminal behavior from mere negligence.

18 U.S.C. § 372 makes it a crime for two or more people to conspire to prevent federal officers from carrying out their duties through “force, intimidation or threats” and 18 U.S.C. § 371 makes it a crime for two or more persons to conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose. These two statutes represent the authority cited by the federal administration with respect to Governor Walz and Mayor Frey. Historically, this statute has been used in cases involving coordinated efforts to obstruct federal authorities, typically involving violence or explicit threats. Public criticism of federal policy is generally considered protected speech unless it involves direct coordination or incitement to impede law enforcement.

8 U.S.C. § 1324 criminalizes the harboring, concealing, or shielding of unauthorized aliens, and penalizes those who encourage unauthorized individuals to enter the United States. Convictions under §1324 generally involve defendants who provide unauthorized aliens with affirmative assistance. While actions like issuing an official statement in support of immigrants would likely have protections under the First Amendment, the federal government may consider warning

¹ [Funding Impact](#)

communities about impending ICE raids as harboring or shielding immigrants, which is prohibited under §1324.

What acts constitute interfering?

What actions rise to the level of interference remain unclear. Certainly, interfering in a physical way with legal process or law enforcement qualifies. That is true even under state law. Minn. Stat. § 609.50, subd. 1(2) prohibits anyone from “obstruct[ing], hinder[ing], or prevent[ing] the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense” or from “obstruct[ing], resist[ing], or interfere[ing] with a peace officer while the officer is engaged in the performance of official duties”. In reviewing state obstruction cases, the Minnesota Supreme Court deemed that although verbal conduct rarely rises to the level of obstruction, it can if ‘fighting words’ or any other words that by themselves have the effect of physically obstructing or interfering with a police officer in the performance of his duties.

The federal administration appears to interpret interference more broadly. Not surprisingly, the federal administration views physically blocking, preventing, or hindering an ICE officer from carrying out lawful duties as “a crime,” that could lead to prosecution under federal obstruction or assault-on-a-federal-officer statutes. Additionally, the federal government also considers the enactment of certain ordinances or policies as interfering with or hindering its process in immigration enforcement and has brought legal actions against various local jurisdictions for doing so.

What other risks exist for cities that adopt ordinances or policies?

Loss of federal funding on any number of grants represents one of the biggest risks to cities. The federal government has stated it will not pay out federal funds to any local entity it deems has passed a policy or law that interferes with immigration enforcement. Additionally, the federal government may choose to bring (and has brought) cases against local jurisdictions based on local policies or ordinances that the federal government consider sanctuary policies, arguing that those laws or policies violate the supremacy clause² and federal law. In some of these cases, the federal government also sued individual elected and appointed officials for obstruction. So far, courts have dismissed those claims against the individuals. Finally, the Department of Justice (“DOJ”) issued a memorandum which instructs prosecutors to conduct investigations of “misconduct” of local jurisdictions, including elected and appointed officials of local government- for potential violations of the “Supremacy Clause” and prosecute if necessary. The DOJ argues the Supremacy Clause requires state and local actors to comply with the Executive Branch’s enforcement initiatives,” and that “[f]ederal law prohibits state and local actors from resisting, obstructing, and otherwise failing to comply with lawful immigration-related commands and requests.” (emphasis added). Finally, I-9 audits are becoming more common. An I-9 audit constitutes a review conducted by ICE to ensure that an employer is following federal laws requiring verification of the identity and work authorization of individuals hired in the United States. ICE begins the process by serving the employer with a written Notice of

² The Supremacy Clause, found in Article VI, Clause 2 of the U.S. Constitution states that the Constitution, the federal laws adopted pursuant to the Constitution and treaties represent the supreme law of land. Because of the Supremacy Clause, when state law conflicts with federal law, federal law preempts the state law.

Inspection, giving the employer three (3) business days to gather and produce I-9 forms and related documents. Cities must comply with these audits.

Have other Cities adopted ordinances or other policies that attempt to regulate immigration or ICE activity?

Yes, though very few cities have chosen to do so and most of the ordinances or policies adopted merely reflect practices that already fall under the City's authority. Because Mankato's City Council specifically inquired about the Minneapolis ordinance, this memo provides a more in-depth overview of that ordinance, however, I also have included brief summaries of ordinances found in other jurisdictions.

Minneapolis Ordinances. [Minneapolis ordinance](#)

i. Ordinance generally. Minneapolis' separation ordinance³ is both symbolic and functional. On a symbolic level, it has a broad policy statement, noting its necessity to protect Minneapolis' peace, health, and safety⁴ and codifying the city's intent to not have city or city staff enforce federal immigration laws. At a functional level, the ordinance only governs what the city has direct authority over (city property and employees) and does not actually limit federal immigration operations within the city. It prevents city employees and contractors from using city property and resources to enforce federal immigration laws and limits public safety officials from enforcing federal immigration laws or verifying immigration status, with certain exceptions. Minneapolis' ordinance also sets up a reporting mechanism to the Minneapolis City Council for certain interactions between public safety officials and federal law enforcement, or in those instances when Minneapolis becomes aware of an ongoing action to enforce federal immigration laws within the city. Finally, the ordinance prevents the use of nonpublic city property as a staging, operations, or processing area for enforcing immigration laws, and defines nonpublic city property as city-owned or controlled property not open to the general public.

ii. Federal Government Reaction to Ordinance. Minneapolis' separation ordinance currently is the subject of a lawsuit brought by the federal government which alleges that the ordinance improperly conflicts with federal immigration laws.⁵ The federal government has labeled it as a "sanctuary ordinance", and in a recent memo defined "sanctuary jurisdictions" as those jurisdictions that "obstruct the enforcement of Federal immigration laws", "refuse to comply with 8 U.S.C. §1373", or "willfully fail to comply with other applicable federal immigration laws." A memo (dated January 21, 2025) directs investigation of incidents of local governments obstructing federal functions, including immigration enforcement actions. The Department of Justice also has indicated it will impose conditions on funding to limit access to federal grants by cities that do not cooperate or that they consider sanctuary jurisdictions.⁶ Similarly, courts have

³ Minneapolis first implemented its separation ordinance in 2003. Following recent expansions of federal immigration enforcement activity throughout the United States and in Minnesota, Minneapolis adopted an amendment to that ordinance on Dec. 11, 2025, with Mayor Jacob Frey approving the amendment on Dec. 17, 2025.³

⁴ Separation Ordinance 19.10.

⁵ [Comply. ¶¶108-14, United States v. Minnesota, No. 0:25-cv-03798, \(D.Minn., 2025\).](#)

⁶ Sanctuary Jurisdiction Directives, Department of Justice: Office of the Attorney General (Feb. 5, 2025), https://www.justice.gov/ag/media/1388531/dl?inline=&utm_medium=email&utm_source=govdelivery.

upheld a federal policy of giving extra “points” to grant applications from jurisdictions which cooperate with the Trump administration on immigration.⁷

St. Paul Ordinance. St. Paul Ordinance

St. Paul is considering amending its ordinance; however, as of now, the ordinance states that the city works cooperatively with all state and federal agencies but does not operate its programs for the purpose of enforcing federal immigration laws.

i. Ordinance generally. St. Paul’s ordinance acknowledges that the Department of Homeland Security has the legal authority to enforce immigration laws in the city and requires the City to avoid enforcing civil immigration laws. The ordinance further provides all residents with equal protection and equal access to city services, without regard to their immigration status under federal law. The ordinance prohibits city officers from stopping, questioning, or detaining individuals solely to determine immigration status and from participating in operations aimed at detecting undocumented individuals unless it is part of a criminal investigation. It allows city officers to assist federal authorities only in criminal investigations, not civil immigration enforcement. Further, officers working for the city must not discriminate based on immigration status or other protected characteristics. Nonpublic safety employees may perform their routine duties (including, but not limited to, verifying I-9 employment eligibility documentation and allowing lawful federal audits of these forms), employees may not (i) inquire about or record a person’s immigration status, unless required by law or program guidelines, (ii) request documents solely to verify immigration status, (iii) use immigration information in ways not mandated by law or (iv) maintain immigration data unless legally mandated. The ordinance does note that employees must comply with valid subpoenas—even those involving immigration-related matters.

ii. Federal Government Reaction to Ordinance. Nothing specific to St. Paul to date. The State of Minnesota, however, is on the sanctuary list published by the Justice Department, which includes certain states, cities and counties the federal government has identified as having policies, laws or regulations that impede enforcement of federal immigration laws.⁸

Ordinances of other jurisdictions.

i. Washington, District of Columbia. In 2021, the Council of the District of Columbia⁹ strengthened Washington, D.C.’s status as a sanctuary jurisdiction by limiting the city’s cooperation with federal immigration enforcement agencies other than in very limited situations. The District may not assist federal immigration authorities without a judicial warrant or order issued and cannot hold someone past their lawful release time due to an immigration detainer request. The District also cannot provide ICE or other immigration authorities with office space, equipment, or access for general searches or inquiries or allow interviews of individuals in District custody unless a judicial order authorizes it *or* the individual requests the interview, and the individual has counsel present (or waive counsel knowingly and voluntarily). Federal immigration authorities also cannot freely access D.C. jails or take custody of individuals there

⁷ See *City of Los Angeles v. Barr*, 929 F.3d 1163, 1174-83 (9th Cir. 2019).

⁸ <https://www.justice.gov/opa/pr/justice-department-publishes-list-sanctuary-jurisdictions>

⁹ D.C. Law 23-282.

unless the District has a valid judicial warrant to rely on. The law further requires training for District staff on its provisions and mandates annual reporting on immigration-related requests and D.C.'s responses.

Federal Government Reaction to Ordinance. The federal administration (i) asserted that D.C.'s sanctuary rules were void once the city was placed under federal control, (ii) publicly named D.C. as a sanctuary jurisdiction subject to funding cuts, and (iii) ordered federal agencies to identify and sanction jurisdictions that have limited cooperation with ICE, including D.C.

ii. Lancaster Pennsylvania. (enacted February 2024)

Ordinance generally. Lancaster's ordinance requires the city to maintain a minimum three-star rating from *Welcoming America*, a national organization that evaluates municipalities on policies supporting immigrants and refugees. Like the other two ordinances, it codifies what the city has authority over including requiring provision of city services to all residents regardless of immigration or refugee status; ensuring that city officials treat all individuals equally, without regard to race, ethnicity, national origin, gender, sexual orientation, or English proficiency; and affirming the city's stance that enforcement of civil federal immigration law is solely a federal responsibility, not a municipal one.

iii. Cook County, Illinois & Chicago, Illinois.

Ordinance generally. Chicago's Welcoming City Ordinance ("WCO") prohibits the City and its employees from requesting, maintaining, or sharing "the citizenship or immigration status of any person". The ordinance also prohibits local law enforcement from complying with civil detainers but allows officers to respond to inquiries/requests accompanied by a criminal warrant.

Reaction to Chicago's ordinance. In February 2025, the Trump administration sued the state of Illinois, Cook County, and the City of Chicago, alleging that their sanctuary city policies are blocking federal authorities from enforcing immigration laws. It represented the first federal lawsuit the Justice Department filed against a state or municipality for sanctuary city policies or ordinances in effect. A judge dismissed that lawsuit in July 2025. Now, the state of Illinois and the City of Chicago has filed a federal lawsuit against the Trump Administration, alleging federal agents conducted an illegal "occupation," during which they utilized violent and unlawful tactics in violation of the Tenth Amendment and federal statutes.

iv. Los Angeles County. Los Angeles County is considering an ordinance limiting the use of county property from being used for uses other than county purposes, including for any civil enforcement staging, processing, or operations, including civil immigration enforcement.

City Formed Committees to Advise on Policy.

i. Santa Fe, New Mexico Immigration Committee. [City of Santa Fe Immigration Committee](#)

Sante Fe, New Mexico, a charter city, has a charter provision related to Human Rights, and it recently revived and redefined its city advisory committee called the Immigration Committee (Santa Fe Resolution No. 2025-31). The Santa Fe Immigration Committee has been tasked with monitoring human rights conditions, informing the Council on possible policy, and promoting inclusive protections for all immigrant residents. The City also has a policy that no municipal

resources can be used to identify or apprehend any non-citizen residents on the sole basis of immigration status.

ii. New York City Immigration Affairs Office. New York City also has a provision in its Charter that creates a Mayoral Office of Immigration Affairs. The responsibilities of this office include advising and assisting the mayor, council, and other agencies on programs and policies related to and designed for immigrant New Yorkers; tracking state and federal policy and law that will impact immigrant New Yorkers; increasing access to city programs, benefits, and services by conducting outreach; and helping advise on the legal service needs of immigrants. This office further must consult with the community and other stakeholders and coordinate an interagency task force on immigrant affairs, as well as work with the relevant city agencies to address the needs of immigrant crime victims and witnesses, including working with agencies on the issuance of U visa certifications and T visa declarations.

Response by federal government to New York City. President Trump has deemed New York City a sanctuary city and has stated the federal administration will withhold funding from sanctuary cities starting February 1, 2026¹⁰. New York City, in the past, has successfully stopped the federal government from withholding funds. In October, a New York federal judge barred the Federal Emergency Management Agency from withholding \$34 million in anti-terrorism grants to New York's Metropolitan Transportation Authority after FEMA told Congress it would pull those funds due to sanctuary policies.

Executive Orders.

Albany, New York. Not a policy, but an executive order. In City of Albany Executive Order 1-17, titled "City of Albany Policy Regarding Community Policing and Protecting Immigrants," the Mayor has prohibited Albany police and all city departments from requesting proof of citizenship or immigration status when providing services. This applies to all residents, including victims, witnesses, or anyone seeking help.

Police Department Policies.

New Orleans Police Department Manual.

New Orleans Police Department ("NOPD") adopted 41.6.1 to make it clear the department would not hold a detainee without a judicial order or criminal warrant. It prohibits officers from initiating investigations, stops, arrests, or any actions based on immigration status. Officers cannot inquire into a person's immigration status except in narrowly defined exceptions and NOPD shall not engage in, assist, or support immigration enforcement *unless* there is a direct, articulable threat to life or public safety, or assistance is required to safely execute a criminal warrant or court order by a federal or state judge.

Are Cities and States suing the Federal Administration?

Yes, cities have started to sue the Department of Homeland Security, Kristi Noem, and some other federal actors individually. Because cities have just started filing these lawsuits, I do not have much information on the success of doing so. Of particular interest, San Diego filed suit

¹⁰ List of cities here: [Office of the Attorney General | U.S. Sanctuary Jurisdiction List Following Executive Order 14287: Protecting American Communities From Criminal Aliens](#).

against the federal government for trespass, public nuisance, and abuse of authority under the Administrative Procedures Act¹¹ in order to halt the federal government's construction of razor wire fencing and the storing of materials on City-owned property. The suit is a bit unique as it seeks to protect environmentally sensitive land that is part of the City's Multiple Species Conservation Program and ensure compliance with longstanding agreements to preserve critical habitats.¹² Other cities that also have started lawsuits against the administration regarding enforcement efforts include Chicago (along with state of Illinois), Minneapolis, and St. Paul (along with the State of Minnesota). Additionally, twenty-two states, including Minnesota, have started actions against the federal administration about withholding funds and have asked the court to order the administration to halt the freeze and release the funds. At the time of writing this memo, a federal judge temporarily has halted the spending freeze.

In addition to ordinances or policies, what other requests have cities received to regulate or monitor ICE?

- i. Following and documenting. Some cities have directed its officers to follow ICE and document activity of ICE officers, without interfering. This has not yet been challenged and likely does not subject those individuals to risk of prosecution other than if a situation arises in which the officer makes a judgment call about intervening because of public safety concerns. Having officers tracking and documenting ICE also likely will result in increased overtime to ensure availability of officers to do this and still provide normal coverage for public safety.
- ii. Reporting out ICE activity on City Website. Cities have received requests to start posting ICE activity on the City website. Federal law sets forth clear criminal penalties for interfering with federal immigration enforcements efforts and for providing false information to ICE. Proactive posting about specific situations could be considered interference. However, to the extent sharing facts on the city website about public safety events represents common practice for the city generally, then doing so likely would not raise as many issues as long as information shared stays strictly factual. The intergovernmental immunity doctrine makes this a bit tricky as it prohibits treating the federal government differently than other individuals or agencies. If allowed, this practice should only provide a brief factual, statement with public information contained in the call for service and the city should also report out on other non-ICE calls for service, when received, in a similar manner.
- iii. Placing Moratoria on Evictions. Many cities have asked about enacting moratoriums on evictions. A city's enactment of an eviction moratorium on private landlords likely runs afoul of the Contract Clause and potentially the Takings Clauses of the United States Constitution. The Contracts Clause forbids state and local government interference with contractual obligations, and evictions represent a term addressed in lease contracts.¹³ If, however, a city wants to institute an eviction moratorium over housing it owns, the answer likely is yes. Cities, as property owners, have the same rights as private property owners and a private landlord could determine

¹¹ The APA provides that federal courts shall "hold unlawful and set aside agency action" that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."

¹² [San Diego Complaint](#)

¹³ See *Heights Apartments, LLC v. Walz*, 30 F.4th 720, 727-32 (8th Cir. 2022).

not to evict a tenant. Cities should review any grants which are applicable to the tenant or the housing to ensure no conflicting provisions exist.

iv. Prohibiting ICE from using portions of city property. As stated earlier in this memo, the City need not allow ICE to use nonpublic areas of city property. However, if ICE has a **judicial** warrant, then the City must comply with the judicial warrant. ICE, however, can enter publicly accessible areas of businesses without a warrant, as these areas represent public spaces with no reasonable expectation of privacy under the Fourth Amendment.

v. Responding to I-9 audits. If received, cities must respond to I-9 audits. An I-9 audit is an official inspection by a government agency—most commonly ICE—to determine compliance by an employer with federal employment-eligibility verification requirements. The federal government uses the audit to detect and deter the employment of individuals not authorized to work in the U.S. Other agencies (e.g., the Department of Labor) also often review I-9s when investigating broader workplace issues. The federal agency, in this instance ICE, issues a Notice of Inspection which gives employers at least three (3) business days to produce documents. Employers must provide all current employees' I-9s and payroll records. Cities should work with their city attorney to review the Notices if the Notice requests additional documentation. ICE then reviews the records it receives for missing forms, errors in completion, incomplete or outdated documents and employment of unauthorized workers.

vi. Acting on missing license plates. Cities have received reports of ICE and other DHS officers using unmarked vehicles without license plates during immigration enforcement actions across the state. Depending on ownership of the vehicles, this practice may violate state law. 41 CFR 102.34.175 provides a limited exemption of certain vehicles from displaying federal government license plates and Minn. Stat. §168.012 recognizes this exemption by stating “[t]he following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees... (1) vehicles owned and used solely in the transaction of official business by the federal government”. Specifically, though, these exemptions apply to vehicles that the federal government (i) owns, leases commercially or leases through the General Services Administration Fleet, (ii) which the federal agency regularly uses to perform investigative, law enforcement, or intelligence duties and (iii) for which the agency received an exemption from its commissioner.¹⁴ For vehicles, other than those for which the federal government holds title, state law applies and license plates must be located on the car for which the plate is registered. The Director of Minnesota’s Driver and Vehicle Services already has warned U.S. Immigration and Customs Enforcement agents that switching out or removing license plates on their vehicles violates state law and subjects them to citations.¹⁵ However, it is important to reiterate that, as stated above, Minnesota law recognizes an exemption for federal government vehicles. These exemptions make enforcement difficult for local officers.

¹⁴ In those instances, the head of the agency must deem the exclusive control of the vehicle essential for effective performance of duties and may grant an exemption from licensing.

¹⁵ Minn. Stat. 168.36 states “Any person who manufactures, buys, sells, uses or displays motor vehicle license number plates, motor vehicle registration certificates, or tax receipts issued by this state or any other state, territory or district in the United States, without proper authority from such state, territory or district of the United States, shall be guilty of a misdemeanor.”

What federal laws is the federal government relying upon?

- i. Supremacy Clause. In some instances, federal law may override state law when Congress explicitly states preemption in a statute (express preemption). Also, preemption under the Supremacy Clause occurs when federal regulation occupies an entire field so entirely that no room for states or local jurisdictions exist to regulate (commonly called field preemption).
- ii. 8 U.S.C. 1373. Federal government also relies upon 8 U.S.C. 1373 to argue express preemption of the relevant sanctuary laws/policies, stating that statute restricts ordinances or policies from prohibiting sharing information with the federal government “regarding” an individual’s “citizenship or immigration status”. It is important to note that Courts have stated that “regarding” does not encompass providing other pieces of information such as contact information, custody status, and release dates, the federal government disagrees.
- iii. Intergovernmental Immunity Doctrine. The federal government often cites the intergovernmental immunity doctrine, arguing state and local governments cannot discriminate against the federal government. The doctrine of intergovernmental immunity is a constitutional principle limiting the ability of the federal and state governments to interfere with one another’s governmental functions. This concept protects the separate sovereignty of both levels of government within the United States federal system. The Supremacy Clause and the Tenth Amendment support this proposition. The primary purpose is to prevent one sovereign from imposing taxes or regulations that undermine the other’s ability to carry out its essential governmental functions. Courts apply a functional analysis, assessing whether an action unduly interferes with or discriminates against the other government’s operations.
- iv. Sensitive areas. On January 21, 2025, the Trump Administration ended a policy that previously protected sensitive locations from immigration enforcement activity —such as schools, hospitals, and churches. This change means that ICE can now conduct arrests in places where vulnerable individuals, including undocumented immigrants, seek essential services. Cities such as New York passed state-level protections like the Protect Our Courts Act to block ICE civil arrests in and around courthouses.

What are cities’ responsive legal arguments?

- i. Tenth Amendment. The Tenth (10th) Amendment makes up part of the Bill of Rights, which outlines the balance of power between the federal government and the states. It states that powers not delegated to the federal government by the Constitution, nor prohibited to the states, belong to the states or the people. The Tenth Amendment intended to protect states from federal overreach and preserve the states’ ability to govern local matters such as policing and public safety. Minnesota (and Illinois) in their lawsuits claim that the federal government’s intrusion into the state and the unlawful and violent tactics being used, have disrupted the lives and undermined the liberties and property rights of the people, injuring those states’ sovereign and proprietary interests.
- ii. Administrative Procedure Act. The Administrative Procedures Act provides that federal courts shall “hold unlawful and set aside agency action” that is “contrary to constitutional right, power, privilege, or immunity.” (5 U.S.C. § 706(2)(B).) This same act further directs federal courts to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of

discretion, or otherwise not in accordance with law.” Cities suing the federal government have included claims in their complaints about violations of the Administrative Procedures Act.

The issues covered above intend to provide an understanding of the positions of the federal government as well as those of state and local entities. The situation and legal landscape continue to evolve related to these matters, all within the background of a very fluid political situation.