

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HARRIS COUNTY, TEXAS, et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of Health
and Human Services, *et al.,*

Defendants.

Case No. 1:25-cv-01275-CRC

**PLAINTIFF'S RESPONSE TO DEFENDANTS'
MAY 23, 2025 DECLARATION**

Defendants' declaration, ECF No. 25-1, filed last night in response to the Court's May 21, 2025 Minute Order, makes clear that Defendants disregarded their statutory duties, even under their own theory. As the declaration elucidates, Defendants failed to pay out the full amounts of funding that Defendants had awarded to states and local governments pursuant to the 2020 Supplemental Act, the CARES Act, the Paycheck Protection Act, the CRRSAA, and the ARPA. Worse still, as to the Paycheck Protection Act and CRRSAA specifically, Defendants concede that they not only failed to pay out the full amount of the awards, but also they failed to pay out the minimum amount Congress appropriated for states and local governments. May 23, 2025 Legier Decl. ¶¶ 19, 23.

Defendants' admission as to the Paycheck Protection Act and CRRSAA grants conclusively undermines their own defense to the identified constitutional and statutory violations. And as to the remaining appropriations, nothing in this case turns on the specific amounts that Congress designated as a minimum for states and local governments. The statutes imposed two

duties on Defendants: (1) spend the appropriated amounts on public health preparedness; and (2) devote at least a certain minimum amount of that spending to states and local governments. That Defendants may have met the latter obligation for some of the congressional appropriations does not change the fact that Defendants are in violation of the first. *See Colorado v. HHS*, No. 1:25-cv-00121-MSM-LDA, 2025 WL 1426226, at *17 (D.R.I. May 16, 2025). Moreover, the agency's own explanation for the Mass Termination Decision, *see* PI Br., ECF No. 14, at 14, makes clear that Defendants terminated the funding not because they thought that there were different ways to address public health preparedness, but because they disagreed with Congress's decision to keep funding public health preparedness at all.

Finally, Plaintiffs would like to clarify that more than \$7 million is at issue for the four Plaintiff Local Governments. The \$7 million amount that Defendants have referred to, *see* Opp. Br., ECF No. 21, at 40, is the amount that Defendants claim remained to be paid on the direct grants. But the declarations attached to Plaintiff's memorandum of law in support of the preliminary injunction identify over \$32 million in funding remaining to be paid to Plaintiff Local Governments, directly or indirectly, at the time of the Mass Termination Decision, as set forth in the table below:

Jurisdiction	Approximate Amount	Declaration Citations
Columbus	\$3,103,000	Johnson Decl. ¶ 13; Tong Decl. ¶ 9
Kansas City	\$2,010,000	Jones Decl. ¶¶ 8, 19, 25
Nashville	\$8,600,000	Thompson Decl. ¶ 10
Harris County	\$19,000,000	Kiger Decl. ¶¶ 5, 12, 22; Lal Decl. ¶ 5
TOTAL	\$32,713,000	

Dated: May 24, 2025

Respectfully submitted,

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/s/ Jonathan G.C. Fombonne

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