

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**DALLAS COUNTY, TEXAS,**

*Plaintiff,*

**Case No. 1:25-cv-4242 (CRC)**

v.

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

*Defendants.*

**PLAINTIFF DALLAS COUNTY, TEXAS'S RESPONSE TO  
DEFENDANTS' MOTION TO STAY PROCEEDINGS**

TO THE HONORABLE COURT:

Plaintiff Dallas County, Texas (the "County") hereby files this response to the Motion to Stay Proceedings filed on February 20, 2026 by Defendants Robert F. Kennedy, Jr., Secretary of United States Department of Health and Human Services, United States Department of Health & Human Services, Jim O'Neill, Acting Director of the Centers for Disease Control and Prevention, and the Centers for Disease Control and Prevention (ECF Doc. 15).

1. The County filed its complaint on December 5, 2025 (ECF Doc. 1). The County moved for a preliminary injunction on December 8, 2025 (ECF Doc. 5). In response, on January 16, 2026 Defendants filed a motion to dismiss and an opposition to the preliminary injunction motion (ECF Doc. 11). The County filed a combined response to Defendants' motion to dismiss and reply in support of its motion for preliminary injunction on February 6, 2026 (ECF Doc. 13).

2. Defendants' motion to dismiss argued, *inter alia*, that many of the County's claims were contractual in nature, and that under the Tucker Act, the Court lacked jurisdiction over such claims (ECF Doc. 11-1, pp. 17-26). The County contends that its claims are not contractual in nature and the Tucker Act is not applicable, that the Court of Federal Claims does not have jurisdiction over the County's claims because the County does not have privity of contract with Defendants, and that the County does not seek money damages (*See* ECF Doc. 13, pp. 20-35).

4. Defendants' motion to stay the proceedings argues that, as in the *Harris County* matter currently pending before the Court, the Court should stay this matter until the D.C. Circuit issues an *en banc* opinion in *Climate United Fund v. Citibank*, D.C. Cir. No. 25-5122 (ECF Doc. 15, pp. 2-3). The County strenuously opposes any stay of this matter for the reasons set forth below.

5. The County acknowledges that, in this Court's preliminary injunction memorandum opinion in the *Harris County* case, this Court stated that the Supreme Court's opinion in *Department of Education v. California*, 604 U.S. 650 (2025), "left many questions unanswered," and that district courts have applied that opinion in different ways due to that uncertainty. *Harris County, Texas v. Kennedy*, 786 F. Supp. 3d 194, 216 (D.D.C. 2025). The County further acknowledges that having more settled law typically benefits trial courts in resolving cases. *See Harris Cnty.*, 796 F. Supp. 3d at 217-18.

6. Also, as Defendants point out, the County has asserted the same claims here that the plaintiffs in *Harris County* brought, and this Court stayed the *Harris County* case earlier this year (ECF Doc. 15, p. 2).

7. However, there are important distinctions between the facts in *Harris County* and the facts in this case, and those differences heavily mitigate the propriety of a stay here. The local

government plaintiffs in *Harris County* received direct funding from Defendants in addition to pass-through funding from their respective states. *See Harris Cnty.*, 796 F. Supp. 3d at 202-03. A determination of whether claims that arise from the termination of direct funding are subject to the Tucker Act was necessary in the *Harris County* case, because a court always has a duty to determine if it has jurisdiction over a matter. *Murphy Exploration and Production Co. v. U.S. Dep' of the Interior*, 252 F.3d 473, 479-80 (D.C. Cir. 2001). By contrast, the County's claims in this case are based solely upon the termination of pass-through grants that the County received from the State of Texas (ECF Doc. 5-3, Declaration of Phillip Huang, ¶¶ 11-12). The Tucker Act does not confer jurisdiction in the Court of Federal Claims unless the claimant has contractual privity with the government. *Cnty. Legal Servs. in East Palo Alto v. U.S. Dep't of Health & Hum. Servs.*, 137 F.4th 932, 939 (9th Cir. 2025); *Cienega Gardens v. U.S.*, 194 F.3d 1231, 1239 (Fed. Cir. 1998). There is no privity of contract between the County and Defendants. Thus, there is no basis for contending that Dallas County's claims in this case should be asserted in the Court of Federal Claims.

8. Furthermore, it is not clear whether any disposition of the *Climate United Fund* appeal would assist the Court in resolving this case. The Tucker Act's inapplicability to entities that are not parties to a contract with the government has not been explicitly addressed at any prior point in *Climate United Fund*. The initial opinion issued by the district court in *Climate United Fund* noted that the plaintiffs included both entities who received funding directly from the federal government and pass-through subrecipients who were public or quasi-public banks operated by states. *Climate United Fund v. Citibank, N.A.*, 778 F. Supp. 3d 90, 99 (D.D.C. 2025). The plaintiffs sought to recover funds that had been placed into accounts at Citibank that had been opened specifically for the plaintiffs and which belonged to the plaintiffs, but which the

government froze. *Id.* But, the distinction between direct recipients and subrecipients appears to have made no difference on appeal. The original majority opinion, which refers to all plaintiffs as “grantees,” concludes that the Administrative Procedures Act (“APA”) claims and ultra vires claims of all the “grantees” were in essence contract claims that were subject to the Tucker Act. *Climate United Fund v. Citibank, N.A.*, 154 F.4th 809, 819-26 (D.C. Cir. 2025). The dissent to the original majority opinion likewise notes that the plaintiffs in *Climate United Fund* include subrecipients, but the dissenting opinion argues that the Tucker Act does not apply to any claims to recover funds that belonged to the plaintiffs; the subrecipient status of the state banks was never mentioned as a separate reason that the Tucker Act did not apply. *Id.* at 835, 855-62 (Pillard, J. dissenting).

9. A brief recently filed by the subrecipient state banks in the *Climate United Fund* case argues, in a single paragraph, that the Tucker Act does not apply to grant subrecipients because they lack contractual privity with the government. *See* State Banks’ En Banc Answering Brief, pp. 33-34 (Case No. 25-5122, Doc. No. 2157069, filed February 2, 2026). Thus, that argument may ultimately be addressed in an *en banc* opinion. But, unless the D.C. Circuit determines that direct recipient and pass-through or subrecipient claims are identical for Tucker Act purposes (which would be a significant departure from existing law), the resolution of the pending *Climate United Fund* appeal should not significantly aid the Court in resolving this matter.

10. The County likewise cannot agree to a stay in this case for a more practical reason: the performance period for the County’s contract with the Texas Department of State Health Services for the funding that was terminated by Defendants expires at the end of July of this year (ECF Doc. 5-3, Declaration of Phillip Huang, ¶¶ 11-12). Any delay in the disposition of this matter thus increases the likelihood that the County will not be able to expend funds in the time remaining

in the contract performance period, and that the County's claims will be subject to a mootness challenge from Defendants. In other words, a stay will serve to "run out the clock." Thus, without relief from the Court, the County will continue to experience harm as a result of Defendants' termination of funding. And, it is likely that the law governing the issues in this case may not fully develop for many months, if not years.

11. Finally, the public interest is served by allowing this case to proceed without delay to a decision on the merits of the County's request for injunctive relief. Otherwise, the harm to public health for the citizens of Dallas County, arising from the termination of the grants, will be rendered irreversible.

WHEREFORE, Plaintiff Dallas County, Texas respectfully requests that the Court deny Defendants' motion to stay the proceedings in this case until the D.C. Circuit issues an opinion in the *Climate United Fund* case.

Dated: March 6, 2026.

Respectfully submitted,

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\*Motion to appear *pro hac vice* forthcoming

\*\*Motion to appear *pro hac vice* pending