IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

American Federation of State, County, and Municipal Employees, AFL-CIO, *et al.*, *Plaintiffs*, *v.* Russell Vought, in his official capacity as Director of the Office of Management and Budget, *et al.*, *Defendants*.	No. 26-2656

DEFENDANTS' SEPARATE STATEMENT REGARDING BRIEFING OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to the Court's motions policy, Defendants respectfully submit this separate statement regarding the briefing of Plaintiffs' motion for a preliminary injunction and stay under 5 U.S.C. § 705, ECF No. 17 ("preliminary injunction motion"). Defendants believe that briefing Plaintiffs' preliminary injunction motion is unnecessary given the entry of preliminary relief in *Illinois v. Vought*, No. 26-1566 (N.D. Ill.), which eliminates any claimed irreparable harm here, and that it would be contrary to the automatic stay triggered by Defendants' motion to transfer. To the extent the Court concludes otherwise, however, Defendants respectfully suggest an alternative to Plaintiffs' proposed schedule.

1. On March 9, Plaintiffs filed a complaint challenging the Center for Disease Control and Prevention's (CDC) termination of certain public health grants in the states of Illinois, California, Colorado, and Minnesota. Although under the Tucker Act such claims sounding in contract would ordinarily be justiciable, if at all, in the Court of

Federal Claims, Plaintiffs theorize that a "Targeting Directive" allegedly issued by the Office of Management and Budget (OMB) required the terminations and gives rise to jurisdiction in this Court.

2. On March 17, just 8 days after the complaint was filed, Defendants moved to transfer the case to the Court of Federal Claims, explaining that Plaintiffs may not end-run that court's exclusive jurisdiction over contract claims concerning the terminated CDC grants by hypothesizing that another agency somehow directed those decisions. ECF No. 16. By statute, the filing of that transfer motion triggered an automatic stay of proceedings in this Court: "When a motion to transfer an action to the Court of Federal Claims is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion." 28 U.S.C. § 1292(d)(4)(B).

3. In the meantime, on March 10, Plaintiffs moved for this case to be reassigned based on its asserted relatedness to *Illinois v. Vought*, No. 26-1566 (N.D. Ill.), a challenge to the same CDC grant terminations and supposed OMB "Targeting Directive" brought by the grantee states themselves. In that case, the court, having previously granted and extended a TRO, entered preliminary relief on March 12. The preliminary injunction bars Defendants from "implementing any guidance or directives to target Illinois, California, Colorado, or Minnesota for the cessation of Health and Human Services or Centers for Disease Control-awarded payments after January 13, 2026," and requires Defendants to "immediately treat any actions taken to implement or enforce guidance or directives to target Illinois, California, Colorado, or Minnesota for the cessation of Health and Human Services or Centers for Disease Control-awarded

payments after January 13, 2026, as null, void, and rescinded." *Illinois*, ECF No. 64. Defendants are complying with that order.

4. Unlike the plaintiffs in *Illinois*, Plaintiffs here are not grantees themselves, but instead unions representing employees of certain grantees, asserting only indirect, downstream harms. This is perhaps why, in contrast to the *Illinois* plaintiffs, who brought suit on February 11, shortly after learning of the then-impending grant terminations, Plaintiffs here waited nearly a month to sue. Moreover, despite stating in their March 9 complaint that they intended to move for "preliminar[y]" relief, ECF No. 1 at 43 ¶ d, they did not file such a motion until March 25—well after the March 12 entry of preliminary relief in *Illinois*. This is likely because, as a practical matter, they are receiving the benefits of that preliminary injunction, as they do not seem to dispute. Indeed, in their separate statement, Plaintiffs reserve the right to seek even "more expedited relief" in this case "if Defendants seek emergency relief with respect to the preliminary injunction entered in *Illinois v. Vought*," ECF No. 20, implicitly underscoring that they are receiving the benefits of that injunction.

5. Under these circumstances, Defendants respectfully submit that there is currently no need to brief, much less grant, Plaintiffs' preliminary injunction motion given the existence of the *Illinois* injunction. Not only are Plaintiffs not experiencing any imminent, irreparable harm, but the entry of an essentially duplicative preliminary injunction would have no practical effect. Numerous "courts that have considered the effect of a prior ruling granting the same or similar relief have concluded that once another district court has entered the same relief, the plaintiffs were no longer able to demonstrate the irreparable harm that was needed to justify the extraordinary relief request." *Faust v. Vilsack*, No. 21-548, 2021 WL 2806204, at *3 (E.D. Wis. July 6,

2021) (collecting cases). In other words, "no irreparable harm will result from the denial (without prejudice) of [a] duplicative requested injunction," *California v. Trump*, 379 F. Supp. 3d 928, 957 (N.D. Cal. 2019), and it "is certainly not an abuse of discretion" to deny "relief . . . duplicative of the relief [a] district court ha[s] already granted," *California v. Trump*, 963 F.3d 926, 949 (9th Cir. 2020). As to Plaintiffs' fear that they "cannot control what happens on any appeal of the *Illinois* preliminary injunction," ECF No. 18 at 38, even if there were an appeal—and there currently is not—the "mere possibility that the injunction . . . could be overturned is not enough to show . . . irreparable harm," because Plaintiffs "could immediately renew their request for relief in this Court." *Faust*, 2021 WL 2806204, at *3. Indeed, "the argument is itself a concession that any harm Plaintiffs may suffer is at this point speculative." *Id.*

6. For similar reasons, the automatic stay triggered by Defendants' transfer motion precludes proceedings on Plaintiffs' preliminary injunction motion. While not all preliminary relief is barred by the stay, such relief is permitted only "where appropriate and where expedition is reasonably necessary." 28 U.S.C. § 1292(d)(4)(B) ("The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary."). Here, Plaintiffs have made no showing that expedition is reasonably necessary, and their own delay in seeking relief, coupled with the benefits they are receiving from the *Illinois* preliminary injunction, demonstrates that it is not. Instead, briefing should proceed on the motion to transfer, and consistent with the Court's motions policy, Defendants will promptly confer with Plaintiffs in an attempt to propose a mutually agreeable schedule.

7. In the event the Court nevertheless wishes to proceed with briefing on Plaintiffs' preliminary injunction motion, however, Defendants respectfully submit that

Plaintiffs' proposed schedule is unnecessarily expedited. Plaintiffs' motion raises several issues that have not previously been briefed in the *Illinois* case, including their lack of standing as nonparties to the grant agreements at issue, a new Equal Protection Claim, and a new First Amendment Claim. Undersigned counsel's component of the Department of Justice's Civil Division continues to face an unusually large caseload of emergency motions, and over the next month, undersigned counsel is responsible for several other significant litigation deadlines.[1] And, as noted, Plaintiffs are currently receiving the benefits of the *Illinois* injunction. Thus, should the Court wish to schedule briefing on Plaintiffs' preliminary injunction motion, Defendants respectfully propose that their deadline to oppose be set at three weeks after entry of that schedule, and that Plaintiffs be permitted, as they suggest, ECF No. 20, a week to reply. Defendants do not oppose Plaintiffs' request for the following page limits: 40 pages for Plaintiffs' motion, 40 pages for Defendants' opposition, and 20 pages for Plaintiffs' reply.

Dated: March 27, 2026

Respectfully submitted,

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/s/Pardis Gheibi
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[1] Undersigned counsel respectfully notes that she was out of the office when Plaintiffs' counsel reached out via email on March 24 to confer about a proposed schedule, returning yesterday, March 26.

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