

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLANDRHODE ISLAND COALITION AGAINST
DOMESTIC VIOLENCE, *et al.**Plaintiffs,*

v.

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

Case No. 1:25-cv-00342

**DEFENDANTS' OBJECTION TO PLAINTIFFS' PROPOSED SECTION OF
PRELIMINARY INJUNCTION ORDER CONCERNING
HUD'S FORM HUD-424B**

At a status conference held on October 15, 2025, the Court and counsel for the parties discussed the need to clarify certain terms in the Court's Preliminary Injunction Order (ECF No. 72). The parties agreed to negotiate the terms of the order as much as possible and the Court instructed the parties to file memoranda concerning their positions on any terms of the order to which they could not agree. As it turns out, the parties have agreed on all but one term, and this memorandum sets forth the Defendants' position on the term in dispute.

The parties' disagreement concerns the scope of the order as it relates to Form HUD-424B. HUD-424B, a copy of which is attached as Exhibit A, is a standard form that the Department of Housing and Urban Development ("HUD") uses agency-wide. Most, if not all, of HUD's Notices of Funding Opportunity require the submission of the HUD-424B as a standard form, and most of HUD's noncompetitive grants also require the form's submission. The form requires grant recipients to certify compliance with a variety of laws ranging from civil rights to

the environment. Many of the grants requiring submission of HUD-424B are therefore not at issue in this litigation and not identified in Plaintiffs' operative complaint or briefing. Plaintiffs have not presented any information or evidence about them.

At issue here is Paragraph 6 of HUD-424B. This paragraph requires a grant applicant to certify that it "[w]ill not use Federal funding to promote diversity, equity, and inclusion (DEI) mandates, policies, programs, or activities that violate any applicable Federal anti-discrimination laws." Ex. A. Plaintiffs believe that, under 5 U.S.C. § 705, the Court should stay HUD's inclusion of Paragraph 6 in Form 424B agency-wide, regardless of the nature of the grant program, the language of the relevant enabling statute and regulations, or the identity grant applicant. Their position is embodied in highlighted Paragraph 2.c of the proposed order, which seeks to set aside under § 705 "[t]he requirement in HUD's Form HUD-424-B" that is set forth in Paragraph 6.

Defendants contend, however, that the scope of the stay Plaintiffs seek is too broad, not supported by the record, and not required by § 705. Instead, Defendants seek a stay under § 705 that is commensurate with the scope of the rest of the preliminary injunction order as it pertains to HUD, i.e., that the stay imposed on HUD's inclusion of Paragraph 6 would be only as to any of the grant programs administered by the Office of Community Planning and Development ("OCPD"). The scope of such a stay would provide Plaintiffs and any similarly situated grant applicants seeking a grant from OCPD with complete relief (whether or not they are parties to the litigation) and thereby preserve the status quo.

Section 705 provides in relevant part:

On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, . . . may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

Section 705 limits the scope of the remedy “to the extent necessary to prevent irreparable injury.” *Salt Pond Assocs. v. U.S. Army Corps of Eng’rs*, 815 F. Supp. 766, 776 (D. Del. 1993) (“[T]he statute does not confer jurisdiction onto the Court to alter the status quo nor does it allow the Court in issuing interim relief to actually dictate specific terms or conditions to a governmental agency.”). “Section 705 operates broadly to allow the agency to postpone enactment of a rule for a host of reasons, or for a Court to suspend enforcement or enjoin its application.” *Casa de Maryland, Inc. v. Wolf*, 486 F. Supp. 3d 928, 971 (D. Md. 2020), *appeal dismissed*, No. 20-2217, 2021 WL 1923045 (4th Cir. Mar. 23, 2021).

In this case, all that is necessary to preserve the status quo is to stay application of Paragraph 6 as to any of the grant programs administered by the OCPD. That will provide a remedy for the Court’s conclusion that, as one of the Challenged Conditions, Form 424B “fail[s] to provide fair notice about how Plaintiffs could comply while simultaneously implementing the various instructions Congress set forth by statute[.]” ECF No. 72 at 22. Plaintiffs submitted evidence to the Court about how Form 424B would affect them, but they failed to address how HUD uses Form 424B in other settings unrelated to the grant programs administered by OCPD. Nor have Plaintiffs attempted to establish their standing to litigate the issue in the context of other, unrelated grant programs. A stay on the use of Paragraph 6 under § 705 that essentially creates a nationwide, agency-wide ban on the use of that paragraph goes far beyond what is necessary to provide interim relief to either Plaintiffs or anyone in their shoes. *Cf. City of Fresno v. Turner*, No. 25-cv-07070, 2025 WL 2721390, at *20 (N.D. Cal. Sept. 23, 2025) (entering preliminary injunction enjoining use of Form 424B, among other conditions “only to the extent [the conditions] make requirements of Plaintiffs beyond what is required by current federal law”).

For these reasons, Defendants request that any stay of the implementation of Paragraph 6 in Form HUD-424B be limited to its use in the grant programs administered by OCPD.

Dated: October 16, 2025

Respectfully submitted,

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; ROBERT F. KENNEDY, JR., in his official capacity as Secretary of Health and Human Services; and all other HHS-affiliated defendants; U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SCOTT TURNER, in his official capacity as Secretary of Housing and Urban Development,

By their Attorneys,

SARA MIRON BLOOM
Acting United States Attorney

/s/ Lauren S. Zurier

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Certification of Service

On this 16th day of October, 2025, I caused the within document to be filed electronically. It is available for viewing and downloading from the Court's ECF system, which will serve it upon all counsel of record.

/s/ Lauren S. Zurier

LAUREN S. ZURIER
Assistant United States Attorney

Applicant and Recipient Assurances and Certifications

U.S. Department of Housing and Urban Development

OMB Number: 2501-0044
Expiration Date: 2/28/2027

Instructions for the HUD 424-B Assurances and Certifications

As part of your application for HUD funding, you, as the official authorized to sign on behalf of your organization or as an individual, must provide the following assurances and certifications. The Responsible Civil Rights Official has specified this form for use for purposes of general compliance with 24 CFR §§ 1.5, 3.115, 8.50, and 146.25, as applicable. The Responsible Civil Rights Official may require specific civil rights assurances to be furnished consistent with those authorities and will specify the form on which such assurances must be made. A failure to furnish or comply with the civil rights assurances contained in this form may result in the procedures to effect compliance at 24 CFR §§ 1.8, 3.115, 8.57, or 146.39.

By submitting this form, you are stating that all assertions made in this form are true, accurate, and correct.

As the duly representative of the applicant, I certify that the applicant: [Insert below the Name and title of the Authorized Representative, name of Organization and the date of signature]:

*Authorized Representative Name:

*Title:

*Applicant/Recipient Organization:

1. Has the legal authority to apply for Federal assistance, has the institutional, managerial and financial capability (including funds to pay the non-Federal share of program costs) to plan, manage and complete the program as described in the application and the governing body has duly authorized the submission of the application, including these assurances and certifications, and authorized me as the official representative of the application to act in connection with the application and to provide any additional information as may be required.

2. Will administer the grant in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C 2000(d)) and implementing regulations (24 CFR part 1), which provide that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity that receives Federal financial assistance OR if the applicant is a Federally recognized Indian tribe or its tribally designated housing entity, is subject to the Indian Civil Rights Act (25 U.S.C. 1301-1303).

3. Will administer the grant in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and implementing regulations at 24 CFR part 8, the American Disabilities Act (42 U.S.C. §§ 12101 et.seq.), and implementing regulations at 28 CFR part 35 or 36, as applicable, and the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) as amended, and implementing regulations at 24 CFR part 146 which together provide that no person in the United States shall, on the grounds of disability or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance; except if the grant program authorizes or limits participation to designated populations, then the applicant will comply with the nondiscrimination requirements within the designated population.

4. Will comply with the Fair Housing Act (42 U.S.C. 3601-19), as amended, and the implementing regulations at 24 CFR part 100, which prohibit discrimination in housing on the basis of race, color, religion, sex, disability, familial status, or national origin and will affirmatively further fair housing; except an applicant which is an Indian tribe or its instrumentality which is excluded by statute from coverage does not make this certification; and further except if the grant program authorizes or limits participation to designated populations, then the applicant

will comply with the nondiscrimination requirements within the designated population.

5. Will comply with all applicable Federal nondiscrimination requirements, including those listed at 24 CFR §§ 5.105(a) and 5.106 as applicable.

6. Will not use Federal funding to promote diversity, equity, and inclusion (DEI) mandates, policies, programs, or activities that violate any applicable Federal anti-discrimination laws.

7. Will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601) and implementing regulations at 49 CFR part 24 and, as applicable, Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)) and implementing regulations at 24 CFR part 42, subpart A.

8. Will comply with the environmental requirements of the National Environmental Policy Act (42 U.S.C. 4321 et.seq.) and related Federal authorities prior to the commitment or expenditure of funds for property.

9. That no Federal appropriated funds have been paid, or will be paid, by or on behalf of the applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of this Federal grant or its extension, renewal, amendment or modification. If funds other than Federal appropriated funds have or will be paid for influencing or attempting to influence the persons listed above, I shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying. I certify that I shall require all subawards at all tiers (including sub-grants and contracts) to similarly certify and disclose accordingly. Federally recognized Indian Tribes and tribally designated housing entities (TDHEs) established by Federally-recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage by the Byrd Amendment, but State-recognized Indian tribes and TDHEs established under State law are not excluded from the statute's coverage.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true, accurate, and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802; 24 CFR §28.10(b)(1)(iii)).

* Signature:

* Date: (mm/dd/yyyy):

Public Reporting Burden Statement: The public reporting burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to: U.S. Department of Housing and Urban Development, Office of the Chief Data Officer, R, 451 7th St SW, Room 4176, Washington, DC 20410-5000. **Do not send completed HUD 424-B forms to this address.** This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. The Department of Housing and Urban Development is authorized to collect this information under the authority cited in the Notice of Funding Opportunity for this grant program. The information collected provides assurances and certifications for legal requirements related to the administration of this grant program. HUD will use this information to ensure compliance of its grantees. This information is required to obtain the benefit sought in the grant program. This information will not be held confidential and may be made available to the public in accordance with the Freedom of Information Act (5 U.S.C. §552).
