

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

STATE OF ILLINOIS, *et al.*,

Plaintiffs,

v.

RUSSELL VOUGHT, in his official
capacity as Director of the Office of
Management and Budget, *et al.*,

Defendants.

No. 26-cv-1566

NOTICE

Defendants respectfully file this notice in response to a specific inquiry from the Court at the March 26 hearing. At that hearing, the Court asked whether Defendants withheld as privileged any documents explaining how the states listed in Attachment B to OMB Budget Data Request 26-09 were selected. As explained below and in the attached supplemental declarations, the answer to that question is no: Defendants searched for such documents, but none were located or withheld.

As the Court is aware, on February 25, it granted in part Plaintiffs' motion for expedited discovery. That order provided in relevant part:

Plaintiffs' motion for expedited discovery [28] is granted in part. Defendants shall produce to plaintiffs documents responsive to plaintiffs' first requests for production Nos. 2, 3 (limited to the CDC), 4 (limited to the CDC), and 5 (limited in its cross-reference to Requests Nos. 2, 3, and 4 and, as to Requests 3 and 4, limited to the CDC). Defendants must also produce: (1) documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09; (2) guidance, directives, or instructions issued after December 1, 2025, from OMB to HHS or CDC on selecting states for grant review; (3) guidance, directives, or instructions issued after August 7, 2025, from OMB to HHS or CDC on whether and how to evaluate grant alignment with agency priorities; and (4) guidance, directives, or instructions issued after August 7, 2025, internal to HHS or CDC on whether and how to evaluate grant alignment with agency priorities.

ECF No. 50 at 1. In a statement accompanying the order, the Court also stated: “The records should be readily identifiable and processed for production by defendants within a few days, and if there are no responsive documents, defendants should be able to promptly certify that none exist.” ECF No. 50 at 2-3.

As previously explained, Defendants did not understand the February 25 order to require them to “attest that no responsive documents exist for any given demand,” ECF No. 55 at 10, Mot. 10, but at most to provide a certification if there were “no responsive documents” at all, ECF No. 72 at 16.¹ Given that Defendants produced several hundred pages of responsive records, this “certification was inapplicable.” *Id.* In collecting and producing records in response to the Court’s February 25 order, Defendants—consistent with standard discovery practice—simply produced all records that were responsive to one or more categories of requests; the privilege logs did not break down to which each category or categories of requests each record was responsive.

Nevertheless, given the Court’s specific inquiry during the March 26 hearing, undersigned counsel followed up with Defendants on this point. As explained in the attached supplemental declarations, both CDC and OMB conducted searches for documents responsive to the portion of the February 25 order concerning “documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09,” but none were found or withheld by either agency.

¹ Defendants respectfully note that the language about certification in the February 25 statement stated that Defendants “should be able to”—not “must”—and was not formally part of the Court’s order.

Dated: March 31, 2026

Respectfully submitted,

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Assistant Attorney General
Civil Division

ERIC HAMILTON
Deputy Assistant Attorney General

ERIC B. BECKENHAUER
Assistant Director

/s Michael Velchik
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SUPPLEMENTAL DECLARATION OF DANIEL SHAPIRO

I, Daniel Shapiro, declare as follows:

1. I am a Deputy General Counsel in the Office of Management and Budget's ("OMB") Office of General Counsel, Executive Office of the President, headquartered in Washington, D.C. In this capacity, I am familiar with the above-captioned case, including OMB's searches conducted for records responsive to the court's order dated February 25, 2025, which granted in part Plaintiff's motion for expedited discovery. ECF No. 50.

2. That order provided in relevant part that:

Defendants shall produce to plaintiffs documents responsive to plaintiffs' first requests for production Nos. 2, 3 (limited to the CDC), 4 (limited to the CDC), and 5 (limited in its cross-reference to Requests Nos. 2, 3, and 4 and, as to Requests 3 and 4, limited to the CDC). Defendants must also produce: (1) documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09; (2) guidance, directives, or instructions issued after December 1, 2025, from OMB to HHS or CDC on selecting states for grant review; (3) guidance, directives, or instructions issued after August 7, 2025, from OMB to HHS or CDC on whether and how to evaluate grant alignment with agency priorities; and (4) guidance, directives, or instructions issued after August 7, 2025, internal to HHS or CDC on whether and how to evaluate grant alignment with agency priorities.

ECF No. 50 at 1.

3. In response to the February 25 order, OMB conducted a search reasonably calculated to locate all documents responsive to each of the listed categories, including “documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09.” ECF No. 50 at 1. That search located no responsive documents, and no such documents were withheld from OMB’s production.

I swear under penalty of perjury that the foregoing is true and correct.

Dated: March 31, 2026

/s/ Daniel Shapiro
Daniel Shapiro
Deputy General Counsel

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DECLARATION OF JORDAN FAIRCLOTH

I, Jordan Faircloth, declare as follows:

1. I am the Deputy Chief of Staff at the Centers for Disease Control and Prevention (CDC) within the U.S. Department of Health and Human Services (HHS). I have served in this capacity since April 29, 2025. In this position, I assist the CDC Chief of Staff in providing strategic counsel to the CDC Director and ensuring proactive coordination of agency-wide priorities and policies in direct support of CDC's mission. I also oversee the operations and management of the Office of the Chief of Staff.

2. In this capacity, I am familiar with the above-captioned case, including the Court's February 25 order granting in part Plaintiffs' motion for expedited discovery.

3. That order provided in relevant part that:

Defendants shall produce to plaintiffs documents responsive to plaintiffs' first requests for production Nos. 2, 3 (limited to the CDC), 4 (limited to the CDC), and 5 (limited in its cross-reference to Requests Nos. 2, 3, and 4 and, as to Requests 3 and 4, limited to the CDC). Defendants must also produce: (1) documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09; (2) guidance, directives, or instructions issued after December 1, 2025, from OMB to HHS or CDC on selecting states for grant review; (3) guidance, directives, or instructions issued after


August 7, 2025, from OMB to HHS or CDC on whether and how to evaluate grant alignment with agency priorities; and (4) guidance, directives, or instructions issued after August 7, 2025, internal to HHS or CDC on whether and how to evaluate grant alignment with agency priorities.

ECF No. 50 at 1.

4. In response to the February 25 order, CDC conducted a search reasonably calculated to locate all documents responsive to each of the listed categories, including “documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09.” ECF No. 50 at 1. That search located no responsive documents, and no such documents were withheld from CDC’s production.

I swear under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of March 2026, in Atlanta, Georgia.

A handwritten signature in black ink, appearing to read 'Jordan Faircloth', is written over a horizontal line. The signature is stylized and somewhat cursive.

Jordan Faircloth