

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

STATE OF ILLINOIS *et al.*,

Plaintiffs,

v.

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

Defendants.

Case No. 26-cv-1566

Hon. Manish S. Shah

**PLAINTIFF STATES' REPLY IN SUPPORT OF  
MOTION TO ENFORCE DISCOVERY ORDER**

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## I. INTRODUCTION

Defendants raise no colorable argument to support their mass invocation of deliberative process privilege; the Court should therefore order them to re-produce their production and respond to the discovery order in writing. In filing after filing, defendants have attempted to cast doubt on the existence of an OMB directive to withhold funds from Plaintiff States based on “sanctuary” status or partisan animus, without ever denying that OMB issued such a directive. In filing after filing, defendants have then asserted that the absence of such a directive would strip this Court of jurisdiction, and require transfer to the Court of Federal Claims. The Court found, in issuing preliminary relief, that the record thus far shows that OMB likely *did* issue such a directive, but defendants’ motion to transfer now calls for a more definite ruling on that factual question. Such a critical factual finding requires an adequate record; thus, this Court ordered defendants to produce documents embodying and *explaining* the decision to target Plaintiff States, along with documents showing how that decision was implemented. Defendants have taken the position, however, that they need not follow that order because the deliberative process privilege allows them to hide any such evidence under black boxes—or simply withhold key documents entirely. This impedes Plaintiff States’ ability to respond to the motion to transfer and forces the Court to decide that motion based on circumstantial evidence when direct evidence is likely at hand.

Of course, the question of Plaintiff States’ need for the documents arises only if defendants have met their burden to show that the documents are both predecisional and deliberative. They have not. Among their meritless arguments, Defendants claim that many communications are predecisional even though they occurred *after* the OMB directive. They assert that some documents are predecisional merely as to minutia such as the timing and location of implementation meetings, rather than final agency decisions, as the test requires. And in still others, they claim that clearly factual materials constitute sensitive policy deliberation. Plaintiff

States enumerate these failures, document-by-document, in the appendix attached as Exhibit 1-A. But even if these documents were predecisional and deliberative, the privilege does not apply when a plaintiff's claims necessarily call for evidence of an agency's motives—and especially where there are well-founded allegations of government misconduct, as there are here.

Relief is warranted because defendants have failed at every step of the analysis: they have not shown that the privilege applies; Plaintiff States' claims are of the kind that overcomes the privilege regardless; and Plaintiff States' need for the documents is great, both to respond to the motion to transfer and to support a future preliminary injunction motion seeking relief against non-HHS agencies. The Court should thus order defendants to re-produce their production without redactions or withholding based on deliberative process privilege and to respond to the discovery order's document demands in writing, or, in the alternative, order defendants to produce a subset of documents to the Court for *in camera* review.

## II. ARGUMENT

The deliberative process privilege “should be applied ‘as narrowly as consistent with efficient government operation.’” *United States v. Farley*, 11 F.3d 1385, 1389 (7th Cir. 1993) (quoting *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980)). Its sole purpose is to promote “frank discussion of legal and policy matters.” *Farley*, 11 F.3d at 1389. To qualify for the privilege, documents must be both predecisional and deliberative. *U.S. Fish & Wildlife Serv. v. Sierra Club, Inc.*, 592 U.S. 261, 268 (2021). The government bears the burden of establishing these elements. *See King v. IRS*, 684 F.2d 517, 519 (7th Cir. 1982). Moreover, the privilege does not apply where the agency's motive is central to a plaintiff's claims. *See In re Subpoena Duces Tecum Served on OCC*, 156 F.3d 1279, 1280 (D.C. Cir. 1998). Because defendants fail to carry their burden, and because defendants' intent to unlawfully target Plaintiff States is central to this case, deliberative process privilege does not apply. And even if defendants

had carried their initial burden, Plaintiff States have demonstrated a particularized need that overcomes defendants' blanket invocation of the privilege. *See Farley*, 11 F.3d at 1389. At a minimum, the Court should conduct *in camera* review of certain key documents that likely contain evidence crucial to this case.

**A. Defendants Have Failed to Meet Their Burden to Support Deliberative Process Privilege**

**1. Defendants Fail to Show That the Documents Are Predecisional**

**a. Defendants Improperly Invoke the Deliberative Process Privilege for Documents Implementing Prior Decisions**

“Documents are ‘predecisional’ if they were generated before the agency’s final decision on the matter. . . .” *Fish & Wildlife*, 592 U.S. at 268. Thus, any documents generated *after* an agency’s “final decision on the matter” at hand are categorically unqualified for the deliberative process privilege. Defendants’ improper redactions make it difficult to say with certainty when OMB first decided to direct other agencies to target Plaintiff States for funding cuts based on “sanctuary” status and partisan animus—but the Court has already found that it likely dates to January 13. *See* ECF 63 at 3 (“The reasonable inference . . . is that OMB’s post-January 13 efforts to obtain data on federal funds and obtain recommended actions was to implement an OMB-led decision to not make payments to states with sanctuary jurisdictions.”). Thus, without prejudice to further motion practice regarding earlier-dated documents, Plaintiff States submit that, at the very least, the subset of documents dated after January 13 (and demarcated in the attached appendix) are necessarily post-decisional—and therefore unprivileged.

Furthermore, the unredacted portions of these documents confirm that they are post-decisional, as many reveal on their faces that they served to carry out an existing decision. For example, the February 4 email chain at CDC\_001332 begins with an email to HHS from the OMB Communications Director stating that OMB that day is “going to announce the first cuts we are

making in funds that we have been asking agencies to investigation [sic] from 14 states and DC,” that “CDC is part of these cuts,” and that “examples of cancelled funds include” a lengthy redacted list. The email chain plainly concerns already-decided cuts—not, as defendants assert, “*deliberations* regarding a press strategy for a potential *future* agency decision,” ECF 72 at 11 (quoting Decl. of Jordan Faircloth (“CDC Decl.”) at 9) (emphasis in ECF 72).<sup>1</sup> Other emails similarly reference decisions that have already occurred or directives that have been given, including one where the OMB Chief of Staff promises to be available “for *further* instruction” related to the subject of the email: “Grant Award - Implementation Call follow up.” CDC\_001335–37 (emphasis supplied)).<sup>2</sup> And in some cases, where the nature of the document may be unclear from the unredacted portions alone, the affidavits and logs confirm that defendants are seeking to invoke this privilege over documents concerning the implementation of an existing decision to cut Plaintiff States’ funds. For example, one declaration describes the redacted material in CDC\_001418–19, a February 5 email thread involving White House, OMB, and HHS personnel, as “reveal[ing] deliberations of the possible *sequencing* of HHS actions related to grants.” Decl. of Daniel Shapiro (“OMB Decl.”) ¶ 33 (emphasis supplied).<sup>3</sup> Such documents are not predecisional—and thus, not privileged.

Defendants have no convincing arguments in response. On the contrary, they rely primarily on their theory that the only relevant decision in this case is CDC’s February 11 issuance of

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<sup>1</sup> The Court may find the majority of defendants’ productions on the record at ECF 55-3. An additional two documents produced on March 23, 2026, are attached as Exhibits 2 and 3 to this motion. Page numbers for all filings, including the privilege logs, are taken from the CM/ECF header placed at the top of filings.

<sup>2</sup> See also, e.g., CDC\_001346 (February 11 email redacting list of sub-agencies from which “HHS *will be sending*” grant cancellations (emphasis supplied)).

<sup>3</sup> See, also e.g., OMB Decl. ¶ 24 (describing redacted material in CDC\_001278–83, a January 27 email from OMB to HHS entirely redacted after the words “NIH should,” as “contain[ing] OMB’s answer to HHS’s question on how to understand its obligations under the BDR”); *id.* ¶ 25 (describing redacted material in CDC\_001287–93, a lengthy late-January email chain between HHS and OMB about the Budget Data Request, as “a characterization of HHS’s internal processes for responding to the [Budget Data Request]”).

termination notices to grant recipients. *See, e.g.*, ECF 72 at 11 (objecting to production of “documents [that] were created *before* the challenged grant terminations were finalized on February 11, 2026” (emphasis in original)). In other words, defendants refuse to acknowledge the upstream OMB directive that Plaintiff States actually challenge, ECF 51, and that the Court has enjoined, ECF at 60. That refusal is incompatible with the order Plaintiff States move to enforce, which directs defendants to produce, *inter alia*, “guidance, directives, or instructions issued after December 1, 2025, from OMB to HHS or CDC on selecting states for grant review.” ECF 50 at 1. The Court recognized these conflicting “definitional position[s]” at the status hearing, ECF 76, Tr. 12:2–13:2, but defendants still do not, as their brief and affidavits demonstrate. Instead, they seek yet again to persuade the Court to adopt their framing of the case and ignore the operative pleading. *Contra id.* at 3:19–20 (Court explaining that “[t]he operative complaint sets the stage for what the claims in the case are”).

In one example of this definitional dispute, defendants withhold or redact many documents on the basis that they pertain to HHS “grant awards not at issue in this litigation,” or to “potential future grant actions” not yet taken. *See* OMB Decl. *passim*; CDC Decl. *passim*. But this case is not limited to specific tranches of CDC grants or to already-attempted terminations, as defendants suggest. Furthermore, the underlying documents do not bear out this objection. For example, after producing (and heavily redacting) two related email chains at CDC\_1416–17 and CDC\_1418–20, and their five attachments at CDC\_1407–15,<sup>4</sup> defendants now claim that this entire group of documents—exchanged on February 5 and 6 between HHS, OMB, and the White House, concerning CDC grant actions based on a review that began January 13—are privileged because they relate to some “future agency grant award action not at issue in this litigation” or otherwise

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<sup>4</sup> The two email chains (CDC\_1416–17 and CDC\_1418–20) have the same initiating email from HHS’s James (JC) Miller that includes the withheld 5 attachments (CDC\_1407–15).

concern “awards not at issue in this litigation.” CDC Decl. at 12–13.<sup>5</sup> But if that were true, then there is no reason defendants would have produced them in the first place; the only fair inference to be drawn is that these documents contain material evidence related to the OMB directive.

Defendants also argue that, even if an OMB directive were at issue, documents revealing the post hoc implementation of that directive can qualify for the deliberative process privilege. *See* ECF 72 at 12–13. As support, defendants cite cherry-picked language from the Seventh Circuit’s decision in *Farley*—but *Farley* cuts *against* defendant’s attempt to shield implementation documents, since it explains that, unlike the documents there, which were “clearly part of the deliberative process leading to the decision to sue,” “[c]ommunications made subsequent to an agency decision are . . . not similarly protected [by the privilege].” 11 F.3d at 1389. Communications “discussing” or “explaining” an “existing policy” are post-decisional by definition. *Pub. Citizen, Inc. v. OMB*, 598 F.3d 865, 875–76 (D.C. Cir. 2010). To accept defendants’ argument would be to read the “predecisional” prong out of the test altogether.

**b. Defendants Improperly Invoke the Deliberative Process Privilege for Documents That Do Not Relate to a Final Decision**

To show that the contents of a document are “predecisional,” defendants must establish that the discussion preceded a “final decision on the matter”—which the Supreme Court has construed to be congruent with the concept of “final agency action” under the APA. *See Fish & Wildlife*, 592 U.S. at 268–69 (citing case “discussing finality in [APA] context” in analyzing when documents are predecisional for deliberative process privilege). Yet defendants’ affidavits often fail to meet this basic requirement. In many instances, defendants assert that documents are

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<sup>5</sup> The CDC\_001418–20 email thread also appears in the OMB affidavit, which says nothing about these communications not relating to grants at issue in the litigation, but rather asserts the thread is privileged because it would “reveal deliberations over the possible sequencing of HHS actions related to grants.” OMB Decl. ¶ 33.

predecisional to routine agency operations,<sup>6</sup> ongoing processes,<sup>7</sup> or vague general concepts,<sup>8</sup> rather than any *actual decision*—much less a final decision with legal consequences, as the law requires.

Indeed, defendants often assert that documents are predecisional to “decisions” so trivial or preliminary that they cannot possibly qualify as a “final decision on the matter,” *id.*, such as decisions about the “timing and location” or “actual content” of a meeting. OMB Decl. ¶¶ 9, 31. For example, defendants heavily redact an email sent on January 22 by an OMB Deputy Director to nearly the entire federal government, *see* OMB Decl. at 14, including all defendant agencies, solely on the basis that it is “predecisional to formulating the actual content of [a] meeting,” *id.* ¶ 9 (discussing OMB\_000023). Similarly, defendants heavily redact a January 22 email from the same OMB Deputy Director to “a variety of external agency colleagues” (all redacted), OMB Decl. ¶ 31, with the subject line “Presidential Policy Alignment / Execution,” seeking “recommended actions prior to February 1,” on the basis that the redacted material identifies “OMB personnel involved in [a] phone call” and “contains deliberation as to the timing and location of a subsequent meeting.” OMB Decl. ¶ 31 (discussing CDC\_001390). Redacting *any* documents—much less such crucial internal communications—by asserting that they are predecisional to non-decisions such as scheduling a meeting cannot justify defendants’ redactions.

## 2. Defendants Fail to Show That the Documents Are Deliberative

To qualify for the privilege, documents must also be “deliberative,” meaning that “they were prepared to help the agency formulate its position.” *Fish & Wildlife*, 592 U.S. at 268.

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<sup>6</sup> *See, e.g.*, OMB Decl. ¶ 12 (OMB\_000030 is purportedly predecisional to “the level of review given to this matter”).

<sup>7</sup> *See, e.g.*, OMB Decl. ¶ 8 (OMB\_000021 is purportedly predecisional to “OMB developing further efforts to assist HHS in its grant awards process”; document is an email from the OMB Chief of Staff to high-ranking HHS officials titled “Grant Awards” thanking HHS for “support[ing] the President’s priorities”); CDC Decl. ¶ 10 (CDC\_001350 is purportedly predecisional regarding the “ongoing process for and review of proposed grant actions”; document is an email chain with subject line “Grant Terminations,” including a February 8 email noting that HHS is “hoping to send these early tomorrow before business hours,” likely referring to the February 9 notices to Congress).

<sup>8</sup> *See, e.g.*, OMB Decl. ¶ 11 (OMB\_000026–29 is purportedly predecisional to “the means by which HHS will eventually make funding decisions” and “how OMB can assist those efforts moving forward”).

“[D]eliberative communications . . . reflect the give-and-take of the consultative process.” *Nat’l Immigrant Just. Ctr. v. DOJ.*, 953 F.3d 503, 508 (7th Cir. 2020) (quotation omitted). Defendants’ opposition brief does not contain substantive discussion of the “deliberative” prong, referencing it only in passing in the legal standard. *See* ECF 72 at 8. And defendants’ affidavits do not fill this gap in their prima facie case: the CDC affidavit instead largely repeats pro forma assertions that disclosure of the documents “would hamper the agency’s ability to manage deliberations in a functional and ordered manner,” *see* CDC Decl. ¶¶ 7, 9–10, 12–14 & pp. 7–14, without explaining *why*, while the OMB affidavit often refers to “deliberations” that have nothing to do with give-and-take over agency policy.<sup>9</sup>

Defendants’ invocation of privilege over a spreadsheet listing grants awarded in Plaintiff States exemplifies their overbroad application of the deliberative prong. “[T]he deliberative process privilege typically does not justify the withholding of purely factual material.” *Enviro Tech Int’l, Inc. v. U.S. E.P.A.*, 371 F.3d 370, 374 (7th Cir. 2004); *see also Wolfe v. Dep’t of Health & Hum. Servs.*, 839 F.2d 768, 774 (D.C. Cir. 1988) (“[F]actual material must be disclosed but advice and recommendations may be withheld.”). A CDC staffer created a spreadsheet on January 22 containing “the active awards for Colorado, California, Minnesota, and Illinois,” *see* CDC\_001266–68, 001436, which was sent to the OMB Chief of Staff on January 28, *see* CDC\_001323; CDC Decl. at 8–9, and then sent back on February 4, *see* OMB\_000030; OMB Decl. ¶¶ 13, 36. A list of grants awarded in Plaintiff States, passed back and forth between OMB and CDC, is both factual in nature and highly relevant to OMB’s role in directing CDC grant cuts to Plaintiff States. Defendants’ claim of privilege over every single version of it<sup>10</sup> therefore fails,

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<sup>9</sup> *See, e.g.*, OMB Decl. ¶ 8 (“OMB’s belief as to an aspect of HHS’s internal processes”); *id.* ¶ 10 (“potential timelines and form of subsequent OMB outreach”); *id.* ¶ 24 (“description of which particular HHS operating divisions’ submissions were attached to the email”); *id.* ¶¶ 24–26 (“timing of submissions from HHS to OMB”).

<sup>10</sup> *See* CDC\_001268.1, 001324, 001399, 001437, 001439; OMB Decl. ¶ 13 & p. 15.

and the spreadsheets “must be disclosed.” *See Wolfe*, 839 F.2d at 774.

**B. Deliberative Process Privilege Does Not Apply When the Government’s Motive Is At Issue—Especially When There Is Evidence of Misconduct**

Even if any of these documents were predecisional and deliberative, deliberative process privilege still would not apply because it is categorically inapplicable to documents probative of agency motives when a case implicates those motives. *See In re Subpoena Duces Tecum Served on OCC*, 145 F.3d 1422, 1424 (D.C. Cir. 1998) (“[I]f either the Constitution or a statute makes the nature of governmental officials’ deliberations *the* issue, the privilege is a nonsequitur.”); *see also, e.g., Connelly v. Cook Cnty. Assessor’s Off.*, 2022 WL 17718411, at \*6–7 (N.D. Ill. Dec. 15, 2022) (collecting cases) (“[T]he privilege does not apply where a plaintiff’s claims challenge the motive and intent behind the government’s action.”). Plaintiff States’ claims turn on OMB’s motive for directing other agencies to cut funding to Plaintiff States. *E.g.*, ECF 51 ¶¶ 185, 194, 203, 212, 221. Yet defendants have withheld and redacted communications from OMB to other federal agencies that would reveal OMB’s role and motive in singling out Plaintiff States. For instance, defendants say that a January 17 email from the OMB Chief of Staff to high-ranking HHS officials titled “Grant Awards,” *see* OMB\_000021, is privileged because it would reveal “context for why OMB is making this request.” OMB Decl. ¶ 8. Likewise, CDC claims privilege over “inter-agency communications regarding the ongoing process for and review of proposed grant actions,” CDC Decl. ¶ 10, even though those claims are central to the case.

Application of the deliberative process privilege is particularly unwarranted where, as here, there is evidence of government misconduct. Indeed, the Seventh Circuit has assumed “that internal discussions about a course of agency action that would be nefarious, if not illegal, likewise would not be protected by the deliberative process privilege.” *Enviro Tech*, 371 F.3d at 376. This rule defeats deliberative process privilege at the threshold, *In re Sealed Case*, 121 F.3d 729, 746

(D.C. Cir. 1997) (“the privilege disappears altogether when there is any reason to believe government misconduct occurred”), and circumstantial evidence suffices, *United States v. Lake Cnty. Bd. of Comm’rs*, 233 F.R.D. 523, 527 (N.D. Ind. 2005). The Court has already held that Plaintiff States can clear that bar, finding sufficient likelihood “that the Office of Management and Budget directed HHS to cut funding for plaintiffs by February 1 because plaintiffs were on a list of states with sanctuary jurisdictions.” ECF 63 at 4. Plaintiff States have also shown that the same OMB directive went to other federal agencies, ECF 56 at 19–20, which defendants’ privilege log now confirms, OMB Decl. at 14–15. So “it makes no sense to permit the government to use the privilege as a shield” in this instance. *In re Subpoena Duces Tecum*, 145 F.3d at 1424.

In response, defendants cite just one district court ruling that opted for *in camera* review instead of suspending the privilege entirely. See ECF 72 at 13 (citing *Ill. Coal. for Immigrant & Refugee Rts., Inc. v. Wolf*, 2020 WL 7353408, at \*2 (N.D. Ill. Dec. 15, 2020) [hereinafter, *ICIRR*]). As a procedural matter, Plaintiff States do not object to an *in camera* review, so this case does not cut against Plaintiff States’ position. See *infra* p. 15. But *ICIRR*’s rejection of an intent exception is also substantively unpersuasive. *ICIRR* relied on a passing comment from a Seventh Circuit opinion that privileges “must be addressed and resolved one lawsuit—indeed, one document—at a time.” *ICIRR*, 2020 WL 7353408, at \* 2 (quoting *United States v. Zingsheim*, 384 F.3d 867, 872 (7th Cir. 2004)). Though *ICIRR* called this a holding, *id.*, *Zingsheim* was a criminal sentencing appeal that implicated the privilege only obliquely, 384 F.3d at 871. And *ICIRR* did not note the Seventh Circuit’s endorsement of an exception for “nefarious” conduct in *Enviro Tech*, 371 F.3d at 376. Thus, this Court should join the majority view that “because Defendants’ intent and misconduct are directly at issue, the deliberative process privilege does not apply.” *Glenwood Halsted LLC v. Vill. of Glenwood*, 2013 WL 140794, at \*3 (N.D. Ill. Jan. 11, 2013).

**C. Plaintiff States Have a Particularized Need for This Information**

Even if the Court found that defendants met their burden to prove that the deliberative process privilege applies to some or all of their production, Plaintiff States may overcome the privilege “where there is a sufficient showing of a particularized need to outweigh the reasons for confidentiality.” *Farley*, 11 F.3d at 1389. The question of need arises only “if the government meets its threshold burden of showing that the privilege applies.” *Evans v. City of Chi.*, 231 F.R.D. 302, 316 (N.D. Ill. 2005) (quoting *Ferrell v. HUD*, 177 F.R.D. 425, 428 (N.D. Ill. 1998)). In evaluating a litigant’s need, courts consider factors such as:

- (1) the relevance of the documents to the litigation;
- (2) the availability of other evidence that would serve the same purpose as the documents sought;
- (3) the government’s role in the litigation;
- (4) the seriousness of the litigation and the issues involved in it; and
- (5) the degree to which disclosure of the documents sought would tend to chill future deliberations within government agencies, that is would hinder frank and independent discussion about governmental policies and decisions.

*Ferrell*, 177 F.R.D. at 429.

With regard to both Plaintiff States’ forthcoming opposition to defendants’ motion to transfer and Plaintiff States’ likely forthcoming motion for preliminary injunction as to non-HHS agencies, all of these factors favor Plaintiff States. To start, the documents are unquestionably relevant, and only defendants have access to documents memorializing the internal decision-making that is the heart of this case. *See id.* at 430 (“highly relevant nature of the documents . . . and the fact that Plaintiffs cannot retrieve [the agency’s] decisionmaking process through other means” outweighed privilege claim). As the Court has acknowledged, Plaintiff States have thus far made their case for the existence of the challenged OMB directive “through circumstantial” evidence. ECF 63 at 2–4. Defendants have *forced* Plaintiff States to rely on circumstantial evidence by shielding direct evidence behind privilege claims, while at the same time arguing that Plaintiff States’ circumstantial case is insufficient without the very evidence defendants have withheld.

*E.g.*, ECF 58 at 25–26. To counter that argument, Plaintiff States thus have a particularized need for direct evidence of what OMB told HHS and other federal agencies about Plaintiff States’ federal funding, and why, and when. Defendants admit that redacted and withheld documents contain such evidence, testifying that the purportedly privileged material includes, for example, “the purpose OMB had in requesting [HHS] briefings,” OMB Decl. ¶ 6, an OMB request to HHS for grant information “and context for why OMB is making this request,” *id.* ¶ 8, the “content to be discussed at [a] meeting” between OMB and the heads of nearly every federal agency, *id.* ¶ 9, and “OMB’s answer to HHS’s question on how to understand its obligations,” *id.* ¶ 24.

Specifically as to the motion to transfer, defendants’ argument is that this is merely a grant-termination case that boils down to contract claims against the United States, for which jurisdiction only lies in the Court of Federal Claims. To make this argument, they have repeatedly sought to cast doubt on the existence of an OMB directive—as they must, given that “challenges to [such] agency-wide policies . . . belong in district court.” *Massachusetts v. NIH*, 164 F.4th 1, 11 (1st Cir. 2026). But defendants cannot use deliberative process privilege as a sword to deprive Plaintiff States of direct evidence of defendants’ unlawful directive. *See Evans*, 231 F.R.D. at 317 (finding particularized need where “the best evidence . . . is not available from other sources”). Defendants are withholding evidence that would aid Plaintiff States and the Court in determining the existence of the agency policy that Plaintiff States challenge. Plaintiff States thus have a particularized need, already recognized by the Court, which overcomes defendants’ invocation of the privilege.

And, as to potential future injunctive relief, when Plaintiff States moved for a preliminary injunction, they sought relief not only against implementation of an OMB directive at HHS, but also against similar targeted cuts and freezes at DHS and DOT. The Court noted, however, that “the official record in this case is limited to HHS (because of the scope of the lawsuit before

plaintiffs filed an amended complaint)” and found that “record does not *yet* support” relief against non-HHS agencies. ECF 63 at 4 (emphasis supplied). There is a strong likelihood that information defendants have withheld would fill gaps in the record regarding other agencies. For example, the heavily redacted January 22 email from OMB to numerous federal agencies “related to spending by those agencies” went to both DOT and DHS, OMB ¶ 9 & p. 14; *see* OMB\_000023. Plaintiff States have a particularized need to know exactly what OMB told those agencies “related to spending.” This need is acute. Plaintiff States are suffering ongoing irreparable harm due to the DOT funding cuts and FEMA funding freeze, which federal sources have publicly stated are the result of the direct targeting of Plaintiff States—including harms to public safety due to unsafe traffic conditions and disaster-damaged infrastructure that the funding at issue was meant to remedy. *See* ECF 56 at 28-29. Set against the severity of that need, defendants’ interest in preserving the confidentiality of these documents cannot prevail.

As to the remaining factors, the federal agencies who possess the relevant materials are defendants in the case, not mere bystanders. This litigation is of the highest importance: human life and safety are at stake, and core constitutional principles are at issue. And defendants’ assertions that disclosure would chill future deliberations are boilerplate, failing to explain *how* future deliberations would be affected. Pro forma recitals of the legal standard cannot outweigh Plaintiff States’ urgent need for these highly relevant documents.

Defendants assert, however, that Plaintiff States had the burden to make a showing of particularized need in their initial motion, and failed to do so. ECF 72 at 9–10. This is not true, as both a legal and factual matter. First, the necessity question only arises if defendants establish their *prima facie* case, which had not (and still has not) occurred here. In fact, when Plaintiff States filed their initial motion, defendants had not even completed the initial basic step of submitting

affidavits outlining the justifications for the privilege, rendering any argument about necessity premature. *See* ECF 55 at 8. Those affidavits are now on file. Furthermore, the changed circumstances since the filing of the motion make Plaintiff States' need all the more acute. In particular, there is now a pending motion to transfer which, as explained, requires the court to make more definitive findings as to the existence and scope of the OMB directive to ensure its own jurisdiction. Thus, defendants' own litigating position has sharpened Plaintiff States' need for these documents—a need to which defendants raise no substantive rebuttal. *See* ECF 72 at 9-10.

**D. Defendants' Production Is Incomplete**

Finally, Defendants have not certified that they have completed the production ordered by the Court, as the order requires—and it appears that key documents are still missing. *See* ECF 50 at 2–3. First, one category ordered by the Court was “documents explaining how plaintiffs were selected for inclusion in Attachment B to Budget Data Request 26-09.” ECF 50 at 1. The afternoon of the date this brief was due, without leave of court, defendants filed additional declarations purporting to certify that there are no such documents. ECF 77. It seems unlikely, to say the least, that OMB generated no documents speaking to how or why four of the 50 equally sovereign States were selected for a searching budgetary review—but even if true, this remarkable and belated assertion does not discharge defendants' obligation to respond in full to the remaining court-ordered requests. And even in the new declarations, defendants still fail to respond to the Court's request to identify which documents are responsive to which categories. *See* ECF 76, Tr. 11:12–24 (“[W]ere there documents that were actually responsive to any of these categories? . . . I am asking . . . so that I can understand what universe of information is actually out there.”). The civil rules similarly require that parties respond in writing to each discovery request. *See* Fed. R. Civ. P. 26(g), 34(b)(2).

Second, OMB now admits that it withheld, based on relevance, grant review documents

that it sent to non-CDC components of HHS, OMB Decl. ¶¶ 21–22, but the Court’s order on this point included “HHS or CDC,” not CDC alone. ECF 50 at 1 ¶ 3. Third, the Court directed defendants to produce the presidential “order” under which “anybody that does a sanctuary city is not getting any money,” ECF 28-1 Ex. A ¶ 2; ECF 50 at 1; but defendants have not identified that order in the production. Plaintiff States request that defendants be required to complete their production and respond in writing to the requests, specifying which documents are responsive to which categories of production ordered by the Court.

**E. In the Alternative, The Court Should Conduct *In Camera* Review**

Plaintiff States have shown that *all* of defendants’ invocations of the deliberative process privilege fail, and thus immediate re-production is required. If, however, the Court disagrees as to some or all of defendants’ production, Plaintiff States respectfully request that the Court review a subset of the documents *in camera*. Column N of the attached appendix indicates the documents which Plaintiff States would respectfully propose as the *in camera* review set. This set of documents includes those discussed in this brief, as well as a subset of additional documents that appear to be particularly probative of the existence of the OMB directive and defendants’ motive in targeting Plaintiff States. They were selected based on factors such as the substance of the unredacted text, the timing, the author, and the identities of any recipients.

**III. CONCLUSION**

Plaintiff States respectfully request that the Court order Defendants to re-produce their discovery production without redactions or withholding based on deliberative process privilege, complete their production, and respond in writing to the document requests, identifying which documents are responsive to which categories of production ordered by the Court. In the alternative, Plaintiff States respectfully request that the Court undertake *in camera* review of defendants’ production, or of the subset of documents identified in Column N of the appendix.

Dated: March 31, 2026

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# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

STATE OF ILLINOIS *et al.*,

Plaintiffs,

v.

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

Defendants.

Case No. 26-cv-1566  
Hon. Manish S. Shah

**DECLARATION OF R. HENRY WEAVER**

I, R. Henry Weaver, declare as follows:

1. I am a resident of the State of Illinois. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am an Assistant Attorney General in the Office of the Illinois Attorney General and counsel for Plaintiff State of Illinois in this matter.

3. I compiled the spreadsheet attached as **Exhibit A** to this declaration from the affidavits and privilege logs produced by defendants the Centers for Disease Control and Prevention (“CDC”) and the Office of Management and Budget (“OMB”) in support of their opposition to the motion to enforce, *see* ECF 72-1; ECF 72-2, as supplemented by information drawn from the underlying document production.

4. Each row of Exhibit A corresponds to a row in either the OMB or CDC privilege log, and Exhibit A combines both into a single document, resulting in 59 total rows. The spreadsheet is sorted primarily by time and date rather than Bates number. Email attachments, however, are arranged to immediately follow the email to which they were attached.

5. Column A reflects the date assigned to the document by the OMB and CDC privilege logs.

6. Column B reflects the time assigned to the document by the OMB privilege log for the documents found on that log. The CDC privilege log does not contain time stamps. As to entries on the CDC privilege log, I retrieved time information from the underlying production, with the following exceptions:

- a. The time stamp for CDC\_001437, a Microsoft Excel file withheld in its entirety, was based on the email to which it was attached, CDC\_001436, the time stamp for which can be found at both CDC\_001438 and CDC\_001267;
- b. The date and time stamp for CDC\_001439, a Microsoft Excel file withheld in its entirety, was based on email to which it was attached, CDC\_001438, the time stamp for which can be found at both CDC\_001438 and CDC\_001267; and
- c. The time stamp for CDC\_001268.1, a Microsoft Excel file withheld in its entirety, was based on the email in which it was linked, which can be found at CDC\_01266.

7. Columns C and D reflect the Bates Start and Bates End information provided by defendants, with the following exception:

- a. Row 32 of the spreadsheet contains a document to which OMB assigned no Bates number, titled "Data\_Request\_PH - Copy (2).xlsx." OMB's affiant testifies that this document was attached to the email produced at OMB\_000030 and that it is "identical to" the file withheld at CDC\_001339. ECF 72-2 ¶¶ 13, 36. "CDC\_001339" likely represents a scrivener's error because that citation is inapposite. From context, it seems likely that the OMB affiant intended to write "CDC\_001439," which would refer to an Excel spreadsheet withheld by CDC in the most recent production.

8. Column E reflects the email subject or document title as provided by the OMB privilege log for the documents found on that log. The CDC privilege log does not contain email subjects and document titles. As to entries on the CDC privilege log, I retrieved email subjects and attachment titles from the underlying production. Rows 38, 43, 45, and 48 denote redactions on the email subject or document title using “[DPP].”

9. Column F reflects information drawn from the privilege logs as to whether a particular document was attached to an email in the production.

10. Columns G through I reflect the author, recipient, and CC recipient information provided by the OMB and CDC privilege logs.

11. Column J provides a citation for the Court’s convenience to the relevant paragraph of the OMB affidavit that discusses the document in question, if applicable.

12. Column K provides a citation for the Court’s convenience to the relevant document number in the CDC privilege log that discusses the document in question, if applicable.

13. Column L lists defendants’ proffered bases for withholding and/or redaction as reflected in the privilege logs using these abbreviations: DPP (deliberative process privilege), ACP (attorney-client privilege), and PII (personally identifiable information).

14. Column M summarizes Plaintiff States’ objections to invocation of deliberative process privilege raised by the pending motion to enforce on the document in question.

15. Column N contains an “X” if Plaintiff States propose the document to form part of an *in camera* review set.

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

Executed on March 31, 2026, in Chicago, Illinois.

By: /s/ R. Henry Weaver  
R. Henry Weaver  
Assistant Attorney General  
Office of the Illinois Attorney General

# **EXHIBIT A**

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. #	CDC Log Doc. No.	Withholding/Redaction	Plaintiff States' Objection	In Camera Request
2	9/30/2025	11:35 PM	CDC_001395	CDC_001398	RE: PRIVILEGED - WH DCOS-P Grants Call Follow-Up Call		Jordan Faircloth (CDC/IOD)	Eric Osterhues (HHS/OGC); Matthew Buzzelli (CDC/IOD)	West Cuthbert (HHS/IOS); Sam Beyda (OS/IOS)		32	DPP; ACP	The affidavit fails to identify a final decision, instead stating that the document is predecisional as to "the agency priorities grants review process" generally; the document also is not deliberative because the affidavit explains it was prepared "in anticipation of conducting policy deliberations," not as part of those deliberations.	
3	11/7/2025	6:48 PM	CDC_001367	CDC_001368	RE: OGC advice on grant terminations from late Sept.		Cristina Del Rosso (HHS/OGC)	Chad Clifford (HHS/ASFR)	Caitrin Shuy (HHS/ASFR); Lena Yueh (HHS/OGC)		27	ACP; PII	None in pending motion.	
4	6/20/2025		CDC_001369	CDC_001371	Terms for inclusion in Notices of Awards	Attached to CDC_001367	Sean Keveney (HHS/OGC)	Heather Flick Melanson (HHS/IOS)			28	ACP; PII	None in pending motion.	
5	6/25/2025		CDC_001372	CDC_001380	Legal Guidance on Award Termination Options	Attached to CDC_001367	Sean Keveney (HHS/OGC)	Heather Flick (HHS/IOS)			29	ACP; PII	None in pending motion.	
6	9/22/2025		CDC_001381	CDC_001389	Termination of Federal Awards for Non-Alignment with Program Goals or Agency Priorities: Legal Guidance Regarding Preparation of Decision Memoranda	Attached to CDC_001367	Robert Foster (HHS/OGC)	Assistant Secretary for Financial Resources			30	ACP	None in pending motion.	
7	1/5/2026	1:33 PM	OMB-00000001	OMB-00000001	Request for HHS Grant Briefings		Farnoosh Faezi-Marian (OMB)	Dale Bell (HHS), Jane Gelbmann (HHS), Stephen Clapham (HHS)	Stephanie Winker (HHS), Steven Mackey (OMB), Shristi Humagai (OMB), Marc Garufi (OMB), Chantel Boyens (OMB), Robin Griffin (OMB), Farnoosh Faezi-Marian (OMB)	6		DPP; PII	Non-deliberative because information on requested briefings does not "reflect the give-and-take of the consultative process;" the affidavit fails to identify a final decision; and the document concerns OMB's motives, including the "purpose OMB had in requesting the briefings."	
8	1/5/2026		OMB-00000002	OMB-00000020	HRSA_CDC_SAMHSA Grants Review	Attached to OMB_000001				7		DPP	Non-deliberative because information on requested briefings does not "reflect the give-and-take of the consultative process;" the affidavit fails to identify a final decision; and the document concerns OMB's motives.	
9	1/5/2026		n/a		HHS-ACF Grants and Program Analysis.pptx	Attached to OMB_000001				21		Nonresponsive	Improperly withheld despite being responsive to Court's discovery order.	

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Def's. Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
10	1/5/2026		n/a		HHS-NIH Grants and Program Analysis.pptx	Attached to OMB_000001				22		Nonresponsive	Improperly withheld despite being responsive to Court's discovery order.	
11	1/17/2026	3:23 PM	OMB-0000021	OMB-0000022	Grant Awards		Katharine Sullivan (OMB)	Matthew Buckham (HHS), Stefanie Spear (HHS)	Kenneth Callahan (HHS), Daniel Wasserman (WHO)	8		DPP; PII	The document is post-decisional; the affidavit fails to identify a final decision; the "context for why OMB is making [the] request" concerns OMB's motives; and much of the identified material (such as "OMB's belief as to an aspect of HHS's internal processes" does not reflect the give and take of the consultative process.	X
12	1/17/2026	3:24 PM	OMB-0000028	OMB-0000029	Grant Awards		Katharine Sullivan (OMB)	Matthew Buckham (HHS), Stefanie Spear (HHS)	Kenneth Callahan (HHS), Daniel Wasserman (WHO)	11		DPP; PII	The document is post-decisional; the affidavit states some material is predecisional "to the means by which HHS will eventually make funding decisions" rather than any actual final decision; the document evidences motive; and the identified material is non-deliberative because it does not reflect the give and take of the consultative process.	X
13	1/22/2026	3:35 PM	CDC_001437	CDC_001437	Data Request SB - 1-22-26.xlsx	Attached to CDC_001436	Shirley Byrd (CDC/OCOO)				45	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the document is non-deliberative because it sets forth purely factual information in the spreadsheet of active awards for Colorado, California, Minnesota, and Illinois (see CDC_001436).	
14	1/22/2026	7:25 PM	CDC_001390	CDC_001391	Fw: Presidential Policy Alignment / Execution		James O'Neill (OS/IOS)	Sam Beyda (OS/IOS); Jayanta Bhattacharya (NIH/OD); Willy Chertman (HHS/IOS); James Miller (HHS/IOS); West Cuthbert (HHS/IOS)		31	31	DPP; PII	The document is post-decisional; the affidavit states the document is predecisional "to the timing and location of a subsequent meeting" and "identities of OMB personnel in the meeting" rather than any actual final decision; the document evidences motive; material such as meeting location and attendee identity is purely factual; and those subjects do not reflect the give and take of the consultative process.	X

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Withholding/Redaction	Plaintiff States' Objection	In Camera Request
15	1/22/2026	11:02 PM	OMB-0000023	OMB-0000023	PMC Deputies Call		Eric Ueland (OMB)	Steven Vaden (USDA), Paul Dabbar (DOC), Robert Salesses (DOD), Chase Forrester (Education), Rebecca Michael (DOE), Jim O'Neill (HHS), Troy Edgar (DHS), Andrew Hughes (HUD), Katharine MacGregor (DOI), Todd Blanche (DOJ), Keith Sonderling (DOL), Michael Rigas (State), Derek Theurer (Treasury), Stephen Bradbury (DOT), Paul Lawrence (VA), David Fotouhi (EPA), Bill Briggs (SBA), Edward Forst (GSA), Jaclyn Jester (NASA), Brian Stone (NSF), David Wright (NRC), Scott Kupor (OPM), Thomas Holland (SSA), Steven Vaden (USDA), Paul Dabbar's Confidential Assistant (DOC), Bryn MacDonnell (DOD), Steve Bradbury's scheduler (DOT), David Taggart (NRC)	Katharine Sullivan (OMB), Mark Paoletta (OMB)	9		DPP; PII	The document is post-decisional; the affidavit states the document is predecisional to "formulating the actual content of the meeting" rather than any actual final decision; the document evidences motive; and the document is non-deliberative because it does not reflect the give and take of the consultative process.	X
16	1/23/2026	9:13 AM	CDC_001439	CDC_001439	Data Request SB - 1-22-26.xlsx	Attached to CDC_001438	Shirley Byrd (CDC/OCOO)			13, 36	46	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the document is non-deliberative because it sets forth purely factual information.	
17	1/23/2026	4:15 PM	CDC_001310	CDC_001312	Re: Beyda, Sam (OS/IOS) wants to access 'CDC Funding - Colorado'		Sam Beyda (OS/IOS)	Shirley Byrd (CDC/OCOO); Jordan Faircloth (CDC/IOD)	Jamie Legier (CDC/OCOO); Jon Messick (CDC/OCOO)		8	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	
18	1/23/2026	5:42 PM	CDC_001430	CDC_001435	RE: URGENT: Grants Info Request		Shirley Byrd (CDC/OCOO)	Sam Beyda (HHS/IOS); Jordan Faircloth (CDC/IOD); Jamie Legier (CDC/OCOO)	Kody Jordan (CDC/OD/OCS)		44	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	
19	1/25/2026	7:14 PM	OMB-0000024	OMB-0000025	Friday PMC follow up		Katharine Sullivan (OMB)	Steven Bradbury (DOT), Katharine MacGregor (DOI), Stephen Vaden (USDA), Paul Dabbar (DOC), West Cuthbert (HHS), Madison Biedermann (Education), David Fotouhi (EPA)	Hal Duncan (OMB), Mark Paoletta (OMB)	10		DPP; PII	The document is post-decisional; the affidavit states the document is predecisional to the process of "developing final actions by relevant agencies regarding spending decisions" rather than identifying an actual final decision; and the document evidences motive.	X

## Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defs.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
20	1/26/2026	8:12 PM	CDC_001268.1	CDC_001268.1	UPDATED Data Request SB2 - 1-26-26.xlsx	Linked in CDC_001267	Shirley Byrd (CDC/OCOO)				1	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the document is non-deliberative because it merely sets forth purely factual information about certain awards.	
21	1/28/2026	2:00 PM	CDC_001323	CDC_001323	CDC Grants		Sam Beyda (OS/IOS)	Katharine Sullivan (EOP/OMB)	James O'Neill (OS/IOS); West Cuthbert (HHS/IOS)		12	PII	None in pending motion.	X
22	1/26/2026		CDC_001324	CDC_001324	SB_annotated_Data Request SB2 - 1-26-26.xlsx	Attached to CDC_001323	Centers for Disease Control and Prevention Personnel				13	DPP	The document is post-decisional; this spreadsheet related to OMB's data request evidences motive; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the spreadsheet is non-deliberative because it sets forth purely factual information.	X
23	1/30/2026	7:27 PM	CDC_001278	CDC_001283	RE: BDR - 26-9 Federal Awards to Entities in Select States		Marc Garufi (EOP)	Dawayne Nutt (HHS/ASFR); Katie McKenna (EOP/OMB)	Farnoosh Faezi-Marian (EOP/OMB); Katherine Swartz (HHS/ASFR)	24	5	DPP; PII	The document is post-decisional; it evidences motive because it contains OMB's comments and questions as to "potential changes which could be made to a submission"; the document is non-deliberative because it does not reflect the give and take of the consultative process but instead purports to discuss "timing" and describe the "nature of" the submissions, including discussing the which HHS operating divisions submissions to OMB's data request were attached.	X
24	1/30/2026	7:38 PM	CDC_001287	CDC_001293	RE: BDR - 26-9 Federal Awards to Entities in Select States		Marc Garufi (EOP)	Dawayne Nutt (HHS/ASFR); Katie McKenna (EOP/OMB)	Farnoosh Faezi-Marian (EOP/OMB); Katherine Swartz (HHS/ASFR)	25	6	DPP; PII	The document is post-decisional; the document evidences motive; the document is non-deliberative because it does not reflect the give and take of the consultative process and instead discusses the "expected timelines" of HHS submissions.	X
25	2/1/2026	7:11 AM	OMB-00000026	OMB-00000028	Re: Grant Awards - Implementation Call follow up		Katharine Sullivan (OMB)	Katharine Sullivan (OMB), Matthew Buckham (HHS), Stefanie Spear (HHS)	Kenneth Callahan (HHS), Daniel Wasserman (WHO), JC Miller (HHS), Caitrin Shuy (HHS)	11		DPP; PII	The document is post-decisional; the affidavit fails to identify a final decision; "how OMB can assist" HHS funding decisions evidences motive; the document is non-deliberative because it does not reflect the give and take of the consultative process.	X

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defns.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
26	2/2/2026	11:20 AM	OMB-00000026	OMB-00000026	Re: Grant Awards - Implementation Call follow up		Matthew Buckham (HHS)			11		DPP; PII	The document is post-decisional; the affidavit fails to identify a final decision; "how OMB can assist" HHS funding decisions evidences motive; the document is non-deliberative because it does not reflect the give and take of the consultative process.	X
27	2/2/2026	1:38 PM	OMB-00000026	OMB-00000026	Re: Grant Awards - Implementation Call follow up		Katharine Sullivan (OMB)	Matthew Buckham (HHS)	Stefanie Spear (HHS), Kenneth Callahan (HHS), Daniel Wasserman (WHO), JC Miller (HHS), Caitrin Shuy (HHS), Cristina Del Rosso (HHS), Gustav Chiarello (HHS), John Walker (HHS)	11		DPP; PII	The document is post-decisional; the affidavit fails to identify a final decision; it evidences motive because it "consists of information which OMB is requesting from HHS" and "how OMB is requesting HHS address OMB's questions" and "how OMB can assist" HHS funding decisions; the document is non-deliberative because it does not reflect the give and take of the consultative process.	X
28	2/2/2026	2:22 PM	CDC_001335	CDC_001337	Re: Grant Awards - Implementation Call follow up		James Miller (HHS/IOS)	Katharine Sullivan (EOP/OMB); Matthew Buckham (HHS/IOS); Stefanie Spear (HHS/IOS)	Kenneth Callahan (HHS/IOS); Daniel Wasserman (EOP/WHO); Caitrin Shuy (HHS/ASFR)	28	17	DPP; PII	None in this motion as it relates to CDC_001335 emails from James Miller; Plaintiff States incorporate their objections to OMB_000021-22 and OMB_000026-29 to the extent the rest of CDC_001335-37 contains duplicates of those emails.	X
29	2/2/2026	4:09 PM	CDC_001338	CDC_001341	Re: Grant Awards - Implementation Call follow up		Matthew Buckham (HHS/IOS)	James Miller (HHS/IOS); Caitrin Shuy (HHS/ASFR); Gustav Chiarello (ASFR)	Cristina Del Rosso (HHS/OGC)	29	18	DPP; PII	None in this motion as it relates to CDC_001338 emails between James Miller and Matthew Buckham; Plaintiff States incorporate their objections to OMB_000021-22 and OMB_000026-29 to the extent the rest of CDC_001339-41 contains duplicates of those emails.	X
30	2/2/2026	8:46 PM	CDC_001342	CDC_001345	Re: Grant Awards - Implementation Call follow up		Matthew Buckham (HHS/IOS)	Katharine Sullivan (EOP/OMB)	Stefanie Spear (HHS/IOS); Kenneth Callahan (HHS/IOS); Daniel Wasserman (EOP/WHO); James Miller (HHS/IOS); Caitrin Shuy (HHS/ASFR); Cristina Del Rosso (HHS/OGC); Gustav Chiarello (ASFR); John Walker (HHS/ASPE)	30	19	DPP; PII	None in this motion as it relates to CDC_001342 email (at 8:46 PM) from Matthew Buckham; Plaintiff States incorporate their objections to OMB_000021-22 and OMB_000026-29 to the extent the rest of CDC_001342-45 contains duplicates of those emails.	X

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defs.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
31	2/4/2026	2:11 PM	OMB-0000030	OMB-0000030	Quick Notes		Colin Yokanovich (OMB)	Caitrin Shuy (HHS), Sam Beyda (HHS)	Donald Dempsey (OMB)	12		DPP; PII	This document is post-decisional; the affidavit fails to identify a final decision; the redacted text evidences motive because OMB avers that it reveals "the level of review given to this matter at OMB"; the document is non-deliberative because it does not reflect the give and take of consultative process.	X
32	2/4/2026		"Identical" to CDC_001439		Data_Request_PH - Copy (2).xlsx	Attached to OMB_000030				13, 36		DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; the document is non-deliberative because it sets forth purely factual information in the spreadsheet.	
33	2/4/2026	4:48 PM	CDC_001332	CDC_001333	Re: CDC CUTS SOON ANNOUCEMENT [sic]		Andrew Nixon (HHS/ASPA)	Matthew Buckham (HHS/IOS); Richard Danker (HHS/ASPA)		27	15	DPP; PII	The document is post-decisional, both because it post-dates the OMB directive and because "press strategy" to spin an agency determination inherently follows that determination; it evidences motive because it is a description "of a proposed announcement" regarding the CDC cuts, which is "the first cuts we are making in funds" related to the OMB data request, and gives "examples of cancelled funds"; it does not reflect the give and take of the consultative process.	X
34	2/4/2026	6:53 PM	CDC_001298	CDC_001304	RE: BDR - 26-9 Federal Awards to Entities in Select States		Farnoosh Faezi-Marian (EOP/OMB)	Dawayne Nutt (HHS/ASFR); Marc Garufi (EOP); Katie McKenna (EOP/OMB)	Katherine Swartz (HHS/ASFR)	26	7	DPP; PII	The document is post-decisional; it evidences motive because it discusses "OMB's expectations of timing and content, and to the nature of changes to the submissions made during the drafting process" in response to OMB's data request; it does not reflect the give and take of the consultative process in discussing "a status and timing update."	X

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Withholding/Redaction	Plaintiff States' Objection	In Camera Request
35	2/5/2026	9:30 AM	CDC_001334	CDC_001334	FW: Grants Update		James Miller (HHS/IOS)	Sam Beyda (OS/IOS); Benjamin Robles (HHS/OGC); West Cuthbert (HHS/IOS); Matthew Buckham (HHS/IOS); Cristina Del Rosso (HHS/OGC); Jordan Faircloth (CDC/IOD); Gustav Chiarello (ASFR); Caitrin Shuy (HHS/ASFR); Colleen White (HHS/ASFR); Mitchell Hailstone (HHS/IOS)			16	PII	None in pending motion.	
36	2/5/2026	3:30 PM	CDC_001351	CDC_001351	FW: Grants Update		James Miller (HHS/IOS)	Sam Beyda (OS/IOS); Benjamin Robles (HHS/OGC); West Cuthbert (HHS/IOS)	Matthew Buckham (HHS/IOS); Cristina Del Rosso (HHS/OGC); Jordan Faircloth (CDC/IOD); Gustav Chiarello (ASFR); Caitrin Shuy (HHS/ASFR); Colleen White (HHS/ASFR); Mitchell Hailstone (HHS/IOS)		23	PII	None in pending motion.	
37	2/5/2026	7:40 PM	CDC_001352	CDC_001353	RE: Grants Update		West Cuthbert (HHS/IOS)	Sam Beyda (OS/IOS); James O'Neill (OS/IOS)			24	PII	None in pending motion.	

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defs.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
38	2/5/2026	9:09 PM	CDC_001418	CDC_001420	Re: [DPP]		Daniel Wasserman (EOP/WHO)	Katharine Sullivan (EOP/OMB)	James Miller (HHS/IOS); Colin Yokanovich (EOP/OMB); Donald Dempsey (EOP/OMB); Clark Milner (EOP/WHO); Mark Paoletta (EOP/OMB); Daniel Shapiro (EOP/OMB); Matthew Buckham (HHS/IOS); Kenneth Callahan (HHS/IOS); Sam Beyda (OS/IOS); Jordan Faircloth (CDC/IOD)	33	41	DPP; PII	The document is post-decisional; it evidences motive because it "identif[ies] which waste was under relevant discussion" by OMB and HHS the week of February 5; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and it is non-deliberative because it does not reflect the give and take of the consultative process, including that it discusses "sequencing of HHS actions related to grants."	X
39	2/5/2026	9:30 PM	CDC_001328	CDC_001328	RE: CDC Regroup		Jordan Faircloth (CDC/IOD)	James Miller (HHS/IOS); Sam Beyda (OS/IOS); Mitchell Hailstone (HHS/IOS); Colleen White (HHS/ASFR); Caitrin Shuy (HHS/ASFR); Cristina Del Rosso (HHS/OGC); Benjamin Robles (HHS/OGC)			14	DPP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
40	2/5/2026	10:55 PM	CDC_001400	CDC_001400	FW: Quick Notes		Sam Beyda (OS/IOS)	Cristina Del Rosso (HHS/OGC); James Miller (HHS/IOS)		32	34	DPP; PII	The document is post-decisional; the redacted text evidences motive because OMB avers that it reveals "the level of review given to this matter at OMB."	X
41	2/4/2026		CDC_001399	CDC_001399	Data-Request_PH - Copy (2).xlsx	Attached to CDC_001400	Office of Management and Budget				33	DPP	The document is post-decisional; the spreadsheet evidences motive because it was "sent over [to HHS] from OMB" and HHS was to add the list to their "ongoing agency grant review" (CDC_001400); the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; the document is non-deliberative because it sets for purely factual information in the spreadsheet.	
42	2/6/2026	12:36 AM	CDC_001269	CDC_001269	Agency Priorites Grant Review		Matthew Buckham (HHS/IOS)	James Miller (HHS/IOS)	Cristina Del Rosso (HHS/OGC)		2	ACP	None in pending motion.	

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Withholding/Redaction	Plaintiff States' Objection	In Camera Request
43	2/6/2026	12:01 PM	CDC_001416	CDC_001417	Re: [DPP]		Katharine Sullivan (EOP/OMB)	Paige Decker (HHS/ASL)	James Miller (HHS/IOS); Daniel Wasserman (EOP/WHO); Colin Yokanovich (EOP/OMB); Clark Milner (EOP/WHO); Jay Fields (EOP/WHO); James Braid (EOP/WHO); Matthew Buckham (HHS/IOS); Sam Beyda (OS/IOS); Kenneth Callahan (HHS/IOS); Jordan Faircloth (CDC/IOD); Mark Paoletta (EOP/OMB); Daniel Shapiro (EOP/OMB)		40	DPP	The lead email was sent by the OMB Chief of Staff but the OMB affidavit does not mention it or justify redaction; it would evidence OMB's motive; the document is post-decisional; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
44	2/6/2026		CDC_001407	CDC_001407	CDC Grants Rollout.docx	Attached to CDC_001416	Centers for Disease Control and Prevention				35	DPP	The document is post-decisional, both because is post-dates the OMB directive and because "press strategy" to spin an agency determination inherently follows that determination; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
45	2/6/2026		CDC_001408	CDC_001408	[DPP] Updated Work Plan Request (CDC).docx	Attached to CDC_001416	Centers for Disease Control and Prevention				36	DPP	The document is post-decisional; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
46	2/6/2026		CDC_001409	CDC_001410	Press Background.docx	Attached to CDC_001416	Centers for Disease Control and Prevention				37	DPP	The document is post-decisional, both because it post-dates the OMB directive and because "press strategy" to spin an agency determination inherently follows that determination; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defs.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
47	2/6/2026		CDC_001411	CDC_001412	Hill Notification.docx	Attached to CDC_001416	Centers for Disease Control and Prevention				38	DPP	The document is post-decisional; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
48	2/6/2026		CDC_001413	CDC_001415	CDC [DPP] Grant.docx	Attached to CDC_001416	Centers for Disease Control and Prevention				39	DPP	The document is post-decisional, both because it post-dates the OMB directive and because "press strategy" to spin an agency determination inherently follows that determination; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	X
49	2/6/2026	3:04 PM	CDC_001316	CDC_001316	Re: CDC Grants and NOFOs		Sam Beyda (OS/IOS)	James Miller (HHS/IOS); Babs Hough (ACF); Martha Verno (ACF); Cody Inman (ACF); Quy Le (ACF); Colleen White (ACF)			11	PII	None in pending motion.	
50	2/6/2026	4:39 PM	CDC_001355	CDC_001355	Re: Grants		Sam Beyda (OS/IOS)	Benjamin Robles (HHS/OGC)	Cristina Del Rosso (HHS/OGC)		26	ACP; PII	None in pending motion.	
51	2/6/2026		CDC_001354	CDC_001354	2.6.26_Part200_DATA_AU DIT 2.xlsx	Attached to CDC_001355	Centers for Disease Control and Prevention Personnel; Office of the General Counsel Personnel				25	DPP; ACP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the document is non-deliberative because it sets forth purely factual information about certain awards, regardless of whether they have been "subject to consideration or deliberations by the agency."	
52	2/6/2026	9:55 PM	CDC_001275	CDC_001276	Re: Attorney Client		Sam Beyda (OS/IOS)	Jordan Faircloth (CDC/IOD); Cristina Del Rosso (HHS/OGC); Benjamin Robles (HHS/OGC); James Miller (HHS/IOS)	Colleen White (HHS/ASFR); Matthew Buckham (HHS/IOS); Quy Le (ACF)		3	PII	None in pending motion.	
53	2/6/2026		CDC_001277	CDC_001277	2.6.26_1_27PM_Part200_Data_Audit.xlsx	Attached to CDC_001275	Centers for Disease Control and Prevention Personnel				4	DPP; ACP	The document is post-decisional; the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations; and the document is non-deliberative because it sets forth purely factual information about certain awards, regardless of whether they have been "subject to consideration or deliberations by the agency."	

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Defns.' Bases for Withholding/Redaction	Plaintiff States' Objection	In Camera Request
54	2/7/2026	11:58 AM	CDC_001425	CDC_001426	Re: Update		Katharine Sullivan (EOP/OMB)	Matthew Buckham (HHS/IOS)	James Miller (HHS/IOS); Kenneth Callahan (HHS/IOS); Donald Dempsey (EOP/OMB); Colin Yokanovich (EOP/OMB); Grace Bruno (Eop/OMB); West Cuthbert (HHS/IOS); Cristina Del Rosso (HHS/OGC); Benjamin Robles (HHS/OGC); Mark Paoletta (EOP/OMB); Daniel Shapiro (EOP/OMB)	35	43	DPP; ACP; PII	The document is post-decisional; and it evidences motive because it reflects "how OMB may assist" HHS with "funding actions."	X
55	2/7/2026	5:35 PM	CDC_001314	CDC_001315	RE: CDC 66 Work Plans - Analysis		Quy Le (ACF)	James Miller (HHS/IOS)	Cody Inman (ACF); Sam Beyda (OS/IOS); Jordan Faircloth (CDC/IOD)		10	DPP; ACP	The document is post-decisional because it evidences HHS post-hoc effort to us artificial intelligence to generate reasons for already-determined funding cuts.	
56	2/7/2026		CDC_001313	CDC_001313	CDC 66 Workplans Analysis 2.7 with Colors.xlsx	Attached to CDC_001314	Centers for Disease Control and Prevention Personnel; Office of the General Counsel Personnel				9	DPP; ACP	The document is post-decisional because it evidences HHS post-hoc effort to us artificial intelligence to generate reasons for already-determined funding cuts; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	

Exhibit 1-A

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Date	Time	Bates Start	Bates End	Email Subject or Document Title	Attachment Information	Author	Recipient	CC Recipient	OMB Decl. ¶	CDC Log Doc. No.	Withholding/Redaction	Plaintiff States' Objection	In Camera Request
57	2/7/2026	6:29 PM	CDC_001423	CDC_001424	Re: Update		Katharine Sullivan (EOP/OMB)	Matthew Buckham (HHS/IOS)	James Miller (HHS/IOS); Kenneth Callahan (HHS/IOS); Donald Dempsey (EOP/OMB); Colin Yokanovich (EOP/OMB); Grace Bruno (Eop/OMB); West Cuthbert (HHS/IOS); Cristina Del Rosso (HHS/OGC); Benjamin Robles (HHS/OGC)	34	42	DPP; ACP; PII	The document is post-decisional; and given that it contains about the "context for [OMB's] making that information request" of HHS, it would evidence OMB's motive in doing so.	X
58	2/8/2026	10:08 PM	CDC_001349	CDC_001350	Re: Grant terminations		Caitrin Shuy (HHS/ASFR)	Gary Andres (HHS/ASL); Gustav Chiarello (ASFR); Colleen White (HHS/ASFR); Braden Murphy (HHS/ASL); Paige Decker (HHS/ASL); James Miller (HHS/IOS); Matthew Buckham (HHS/IOS)	Jordan Cox (HHS/ASFR)		22	DPP	The document is post-decisional; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	
59	2/9/2026	4:46 PM	CDC_001347	CDC_001348	RE: Grant Funding - Alignment with Agency Priorities		Darcie Johnston (OS/IEA)	James Miller (HHS/IOS); Gary Andres (HHS/ASL); Richard Danker (HHS/ASPA); Mitchell Hailstone (HHS/IOS); Gustav Chiarello (ASFR); Caitrin Shuy (HHS/ASFR)	Cristina Del Rosso (HHS/OGC); Kenneth Callahan (HHS/IOS); Matthew Buckham (HHS/IOS); Colleen White (HHS/ASFR); Sam Beyda (OS/IOS)		21	PII	None in pending motion.	
60	2/11/2026	1:29 PM	CDC_001346	CDC_001346	Grant Cancellation Update 2.11.2026		James Miller (HHS/IOS)	Matthew Buckham (HHS/IOS)	Cristina Del Rosso (HHS/OGC)		20	DPP; ACP; PII	The document is post-decisional; and the privilege invocation improperly limits the decision at issue to the first-round CDC grant terminations.	

**Document Withheld as Privileged**

# **EXHIBIT 3**

**From:** [Byrd, Shirley K. \(CDC/OCOO/OFR/OGS\)](#)  
**To:** [Beyda, Sam \(CDC/IOD\)](#); [Beyda, Sam \(OS/IOS\)](#)  
**Cc:** [Legier, Jamie W. \(CDC/OCOO/OFR/OGS\)](#); [Messick, Jon \(CDC/OCOO/OFR/OGS\)](#)  
**Subject:** Active Grants - CO, CA, MN & IL  
**Attachments:** [Data Request SB - 1-22-26.xlsx](#)

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Good Afternoon –

As requested, attached are the active awards for Colorado, California, Minnesota, and Illinois. Each state is on a separate tab and sorted by entity type (Column E). Please let me know if you have questions or would like additional information.

Thank you,

**Shirley**

**Document Withheld as Privileged**

**From:** [Byrd, Shirley K. \(CDC/OCOO/OFR/OGS\)](#)  
**To:** [Beyda, Sam \(CDC/IOD\)](#); [Beyda, Sam \(OS/IOS\)](#)  
**Cc:** [Legier, Jamie W. \(CDC/OCOO/OFR/OGS\)](#); [Messick, Jon \(CDC/OCOO/OFR/OGS\)](#)  
**Subject:** RE: Active Grants - CO, CA, MN & IL  
**Attachments:** [Data Request SB2 - 1-22-26.xlsx](#)

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Good Morning Sam!

Attached is the updated spreadsheet with the additional information you requested.

- Tabs 1-4 are broken out by state and show total funds that have been obligated to each recipient (Column F) and current PMS balances (Column H)
  - Each state is sorted by amounts obligated from largest to smallest amounts.
  - Filters available to sort by both recipient and recipient type
- Tab 5 is estimated future funding for all recipients in the 4 states.
  - Estimate was calculated on previous award amounts excluding any special funding, such as COVID, MPOX etc
  - This estimate is for the next annual award amount
  - At the top of the tab in row 1, there is a filter so you can view by each state.

Please let me know if you have any questions or if I can provide any clarification on the information provided. These spreadsheets can get busy and cumbersome.

Thank you & Happy Friday!

Shirley

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**From:** Byrd, Shirley K. (CDC/OCOO/OFR/OGS)  
**Sent:** Thursday, January 22, 2026 3:35 PM  
**To:** Beyda, Sam (CDC/IOD) <bh15@cdc.gov>; 'Beyda, Sam (OS/IOS)' <Sam.Beyda@hhs.gov>  
**Cc:** Legier, Jamie W. (CDC/OCOO/OFR/OGS) <bzl3@cdc.gov>; Messick, Jon (CDC/OCOO/OFR/OGS) <yfa4@cdc.gov>  
**Subject:** Active Grants - CO, CA, MN & IL

Good Afternoon –

As requested, attached are the active awards for Colorado, California, Minnesota, and Illinois. Each state is on a separate tab and sorted by entity type (Column E). Please let me know if you have questions or would like additional information.

Thank you,

**Shirley**

**Document Withheld as Privileged**