

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, IN HIS OFFICIAL
CAPACITY AS PRESIDENT OF THE
UNITED STATES, *et al.*,

Defendants.

Civil Action No. 1:25-cv-39 (JJM)

**DEFENDANTS' SUPPLEMENTAL MOTION REGARDING PERMISSION TO
CONTINUE PAYMENT REVIEW PROCESSES**

Earlier this evening, Defendants submitted an emergency motion requesting permission to continue withholding FEMA and other funding, *see* ECF No. 102. As a supplement to that motion, Defendants hereby also respectfully request permission to continue implementing their ongoing review processes for grantee payment requests.

As discussed in Defendants' earlier motion, on January 31, 2025, this Court entered a Temporary Restraining Order (TRO) that provided certain relief against the temporary pause of funding announced in OMB Memorandum M-25-13, but still allowed Defendants to pause funding "on the basis of the applicable authorizing statutes, regulations, and terms," provided they "comply with all notice and procedural requirements in the award, agreement, or other instrument relating to decisions to stop, delay, or otherwise withhold federal financial assistance programs." ECF No. 50 at 12.

On February 7, 2025, Plaintiffs filed an Emergency Motion to Enforce the TRO, in particular arguing that Defendants cannot rely on “unspecified administrative and operational delays” to justify delayed payments because “these are the delays the Defendants are enjoined from imposing.” ECF No. 66 at 3; *see also id.* at 10 (“the Order requires compliance without exception for administrative or operational difficulties”). In response, Defendants’ filing explained that some delays were attributable to agencies’ ongoing operation of their programs, such as processes associated with reviewing payment requests. *See* ECF No. 70 at 9-10. In particular, Defendants noted that the Payment Management System (PMS) has a process for ensuring that payments are lawful and appropriate. *Id.*

This Court granted Plaintiffs’ Motion to Enforce the TRO, stating that “Defendants now plea that they are just trying to root out fraud,” but “the freezes in effect now were a result of the broad categorical order, not a specific finding of possible fraud.” ECF No. 96 at 3. The Court specifically ordered that “Defendants must immediately take every step necessary to effectuate the TRO, including clearing any administrative, operational, or technical hurdles to implementation.” *Id.* at 4 ¶ 3. The Court noted, however, that Defendants “can request targeted relief from the TRO from this Court where they can show a specific instance where they are acting in compliance with this Order but otherwise withholding funds due to specific authority.” *Id.* at 3-4.

In addition to the relief requested in Defendants’ earlier motion, *see* ECF No. 102, Defendants also hereby request confirmation that they may permissibly

implement payment review processes such as the one at PMS, *i.e.*, as “a specific instance where they are acting in compliance with this Order but otherwise withholding funds due to specific authority.” ECF No. 96 at 4. The relevant facts regarding PMS’s process for reviewing payment requests are set forth in the attached declaration from Melissa Bruce, the Deputy Assistant Secretary for Administration and Director of the Program Support Center. In short, PMS seeks to continue its process of reviewing flagged payments, rather than immediately disbursing all payment requests. *See* Bruce Decl. ¶¶ 3-8.

In addition to Defendants’ earlier requested relief, therefore, Defendants also respectfully request that the Court provide “targeted relief” from its Orders, confirming that agencies may continue implementing review processes to ensure payments are lawful and appropriate, such as the process described in the attached declaration regarding PMS.

Dated: February 11, 2025

Respectfully Submitted,

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CERTIFICATION OF SERVICE

I hereby certify that on February 11, 2025, I electronically filed the within Certification with the Clerk of the United States District Court for the District of Rhode Island using the CM/ECF System, thereby serving it on all registered users in accordance with Federal Rule of Civil Procedure 5(b)(2)(E) and Local Rule Gen 305.

/s/ Daniel Schwei
DANIEL SCHWEI