

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARTIN LUTHER KING, JR.
COUNTY; PIERCE COUNTY;
SNOHOMISH COUNTY; CITY AND
COUNTY OF SAN FRANCISCO;
COUNTY OF SANTA CLARA; CITY
OF BOSTON; CITY OF COLUMBUS;
CITY OF NEW YORK; CITY &
COUNTY OF DENVER;
METROPOLITAN GOVERNMENT OF
NASHVILLE & DAVIDSON COUNTY;
PIMA COUNTY; COUNTY OF
SONOMA; CITY OF BEND; CITY OF
CAMBRIDGE; CITY OF CHICAGO;
CITY OF CULVER CITY; CITY OF
MINNEAPOLIS; CITY OF PASADENA;
CITY OF PITTSBURGH; CITY OF
PORTLAND; CITY OF SAN JOSÉ;
CITY OF SANTA MONICA; CITY OF
TUCSON; CITY OF WILSONVILLE;
CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY; INTERCITY
TRANSIT; SAN FRANCISCO COUNTY
TRANSPORTATION AUTHORITY;
TREASURE ISLAND MOBILITY
MANAGEMENT AGENCY; PORT OF
SEATTLE; KING COUNTY REGIONAL
HOMELESSNESS AUTHORITY;
SANTA MONICA HOUSING
AUTHORITY; COUNTY OF
ALAMEDA; CITY OF
ALBUQUERQUE; MAYOR AND CITY
COUNCIL OF BALTIMORE; CITY OF
BELLEVUE; CITY OF BELLINGHAM;

No. 2:25-cv-00814-BJR

THIRD AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

THIRD AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 1

1 CITY OF BREMERTON; COUNTY OF
2 DANE; CITY OF EUGENE; CITY OF
3 HEALDSBURG; COUNTY OF
4 HENNEPIN; KITSAP COUNTY; CITY
5 OF LOS ANGELES; CITY OF
6 MILWAUKEE; MILWAUKEE
7 COUNTY; MULTNOMAH COUNTY;
8 CITY OF OAKLAND; CITY OF
9 PACIFICA; CITY OF PETALUMA;
10 RAMSEY COUNTY; CITY OF
11 ROCHESTER; CITY OF ROHNERT
12 PARK; CITY OF SAN DIEGO; SAN
13 MATEO COUNTY; CITY OF SANTA
14 ROSA; CITY OF WATSONVILLE;
15 CULVER CITY HOUSING
16 AUTHORITY; PUGET SOUND
17 REGIONAL COUNCIL; SONOMA
18 COUNTY TRANSPORTATION
19 AUTHORITY; SONOMA COUNTY
20 COMMUNITY DEVELOPMENT
21 COMMISSION, CITY OF ALBANY,
22 ALLEGHENY COUNTY, CITY OF
23 BERKELEY, CITY OF BOTHELL, CITY
24 OF CINCINNATI, DELAWARE
25 COUNTY, LOS ANGELES HOMELESS
26 SERVICES AUTHORITY, CITY OF
27 NEW HAVEN, CITY OF OLYMPIA,
CITY OF PALO ALTO, CITY OF PORT
ANGELES, CITY OF SANTA FE, CITY
OF SPOKANE, CITY OF TACOMA,
AND THURSTON COUNTY

Plaintiffs,

vs.

SCOTT TURNER in his official capacity
as Secretary of the U.S. Department of
Housing and Urban Development; the
U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT; SEAN
DUFFY in his official capacity as
Secretary of the U.S. Department of
Transportation; the U.S. DEPARTMENT
OF TRANSPORTATION; TARIQ
BOKHARI in his official capacity as

THIRD AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 2

1 acting Administrator of the Federal
2 Transit Administration; the FEDERAL
3 TRANSIT ADMINISTRATION;
4 GLORIA M. SHEPHERD in her official
5 capacity as acting Director of the Federal
6 Highway Administration; the FEDERAL
7 HIGHWAY ADMINISTRATION;
8 CHRIS ROCHELEAU in his official
9 capacity as acting Administrator of the
10 Federal Aviation Administration; the
11 FEDERAL AVIATION
12 ADMINISTRATION; DREW FEELEY in
13 his official capacity as acting
14 Administrator of the Federal Railroad
15 Administration; the FEDERAL
16 RAILROAD ADMINISTRATION;
17 ROBERT F. KENNEDY, JR. in his
18 official capacity as Secretary of the U.S.
19 Department of Health and Human
20 Services; and the U.S. DEPARTMENT
21 OF HEALTH AND HUMAN
22 SERVICES,

23
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26
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Defendants.

I. INTRODUCTION

1
2 1. It is not the prerogative of the President “to make laws or a law of the United
3 States,” which would plainly “invade the domain of power expressly committed by the constitution
4 exclusively to congress.” *Cunningham v. Neagle*, 135 U.S. 1, 83–84 (1890). Rather, it is the duty
5 of the President, and, by extension, the executive branch agencies he administers, to “take care
6 that the laws are faithfully executed.” U.S. Const. art. II, sec. 3. Among other things, this duty
7 requires the executive branch to respect the powers granted to Congress and those reserved to the
8 states, while carefully administering statutes enacted through the legislative process.

9
10 2. In authorizing federal grant dispersals, Congress exercised its spending power to
11 establish permissible conditions that agencies may impose on a grant award. An agency lacks
12 authority to impose grant conditions beyond what Congress has authorized, and such “conditions
13 are ultra vires.” *City of Los Angeles v. Barr*, 941 F.3d 931, 945 (9th Cir. 2019). In short, an agency’s
14 power to condition grants is wholly dependent on the existence of statutory authority. *City & Cnty.*
15 *of San Francisco v. Barr*, 965 F.3d 753, 766 (9th Cir. 2020).

16
17 3. Moreover, Congress’s power to attach conditions to federal grants is constrained
18 by the Constitution. *South Dakota v. Dole*, 483 U.S. 203, 207–08, 211 (1987). The Executive’s
19 power to attach conditions to federal grants thus is further restricted by these limits on
20 congressional power.

21
22 4. Here, the U.S. Department of Housing and Urban Development (HUD), often
23 acting through its program offices; the U.S. Department of Transportation (DOT), often acting
24 through its operating administrations, including the Federal Transit Administration (FTA), the
25 Federal Highway Administration (FHWA), the Federal Aviation Administration (FAA), and the
26 Federal Railroad Administration (FRA) (collectively, the “DOT Defendants”); and the U.S.

1 Department of Health and Human Services (HHS), often acting through its operating divisions and
 2 agencies,¹ seek to impose conditions on funding, provided through congressionally authorized
 3 federal grant programs, to coerce grant recipients that rely on federal funds into implementing
 4 President Trump’s policy agenda, and direct them to adopt his legal positions, contrary to settled
 5 law. By unilaterally imposing grant conditions Congress has not authorized and that even Congress
 6 could not constitutionally enact, Defendants usurp Congress’s power of the purse. These
 7 conditions bear little or no connection to the purposes of the grant programs Congress established.
 8 They also contravene bedrock separation of powers principles and violate numerous other
 9 constitutional and statutory protections, including (among others) the Spending Clause, the Tenth
 10 Amendment’s anti-commandeering principle, and the Fifth Amendment’s void-for-vagueness
 11 doctrine, as well as the Administrative Procedure Act (APA).
 12

13
 14 5. In sum, Defendants’ unlawful attempts to repurpose federal grant programs
 15 established by Congress harm Plaintiffs by threatening *more than \$12 billion* in already-awarded
 16 and soon to be awarded funds they need to support critical programs and services for their
 17 residents, including permanent and transitional housing, transit services and improvements,
 18 airports, health care, and more. Allowing the unlawful grant conditions to stand would negatively
 19 impact Plaintiffs’ committed budgets, force reductions in their workforce, and undermine their
 20 ability to determine for themselves how to meet their communities’ unique needs. As such,
 21

22
 23 ¹ Plaintiffs refer herein to the HUD, DOT, and HHS subdivisions using each agency’s
 24 terminology. Thus, for DOT, Plaintiffs use the term “operating administrations” or “OAs,” *see*
 25 49 C.F.R. § 1.2(b); for HHS, “operating divisions and agencies,” *see* HHS Agencies & Offices,
 26 <https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html> (last visited June 27,
 2025); and for HUD, “program offices” or simply “offices,” *see* U.S. Dep’t of Housing & Urban
 27 Dev., Programs of HUD, 2025,
<https://www.hud.gov/sites/dfiles/Main/documents/HUDPrograms2025.pdf>.

1 Plaintiffs seek an order declaring the grant conditions at issue unlawful, void, and unenforceable
2 and enjoining their imposition and enforcement.

3 **II. JURISDICTION AND VENUE**

4 6. The Court has jurisdiction under 28 U.S.C. § 1331. This Court has further remedial
5 authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202 *et seq.*

6 7. Venue properly lies within the Western District of Washington because this is an
7 action against an officer or employee of the United States and an agency of the United States, there
8 are Plaintiffs residing in this judicial district, and a substantial part of the events or omissions
9 giving rise to this action occurred in this district. 28 U.S.C. § 1391(e)(1).

10 **III. PARTIES**

11 8. Plaintiff Martin Luther King, Jr. County (“King County”) is a home rule charter
12 county organized and existing under and by virtue of the constitution and laws of the State of
13 Washington.

14 9. King County relies on nearly \$67 million each year in HUD Continuum of Care
15 (CoC) grant funds to serve its homeless residents, who numbered almost 17,000 during a recent
16 count. King County also receives millions of dollars in other HUD funding, such as approximately
17 \$5.6 million annually in Community Development Block Grant (CDBG) funds, approximately
18 \$3.4 million annually in HOME Investment Partnerships (HOME) funds, and approximately
19 \$295,000 annually in Emergency Solutions Grant (ESG) funds. These dollars, in turn, critical
20 housing, community development, and human services programs, including infrastructure repairs
21 to maintain the habitability of existing housing, senior center and other community facility capital
22 repairs, multi-family affordable housing developments, and temporary shelter. King County also
23 provides approximately \$2.6 million in pass-through funding from CDBG.

1 10. Additionally, King County relies on substantial federal grants—including over
2 \$446 million in appropriated FTA grants—to provide critical transit services and improvements
3 for the benefit of King County residents. And King County also relies on significant federal
4 funding—including over \$7 million in FAA entitlement grants awarded in 2023 and 2024 (with
5 over \$6.6 million remaining to be disbursed) and a projected \$9.5–\$15.3 million in FAA
6 entitlement grant funding for 2025–2029—in operating, maintaining, and improving the King
7 County International Airport/Boeing Field in Seattle, Washington. Finally, King County relies on
8 approximately \$84 million in grants administered by FHWA, including discretionary grants
9 awarded directly to King County and formula grants awarded to the Washington State Department
10 of Transportation (“WSDOT”) and the Puget Sound Regional Council and allocated to King
11 County, for highways, roads, tunnels, bridges, and other transit capital projects.
12

13
14 11. Finally, King County receives funding from HHS through over 80 federal grant
15 programs. For example, HHS funding through Health Resources and Services Administration
16 (HRSA) supports health centers for underserved populations. King County was awarded \$5.5
17 million for FY 2025 and the same amount for FY 2026. King County also receives funding through
18 Ryan White HIV/AIDS (RWHA) program Part A to provide quality medical care and essential
19 support services for low-income individuals living with HIV who are uninsured or underinsured.
20 King County has applied for funding through this program in the amount of \$7,712,292 to cover
21 the period March 1, 2025–February 28, 2026, and has so far received notices of awards totaling
22 \$3,316,948 for that period.
23

24 12. King County brings the action as to the unlawful HUD Grant Conditions, the
25 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions as further defined
26 below.

1 13. Plaintiff Pierce County is a home rule charter county organized and existing under
2 and by virtue of the constitution and laws of the State of Washington.

3 14. Pierce County relies on just over \$4.9 million annually (as of 2025) in CoC funds
4 to support permanent supportive housing and rapid rehousing projects for individuals and families
5 experiencing homelessness throughout the county. Pierce County also receives approximately \$41
6 million in additional HUD grant funding to address housing instability, support vulnerable
7 populations, and invest in community development, among other critical programs and services.
8

9 15. Pierce County also relies on substantial transportation grants, including more than
10 \$14 million in FHWA grants and at least \$696,000 in FAA grants, some of which are passed
11 through from WSDOT.

12 16. Pierce County also receives approximately \$75 million in grant funding from HHS,
13 which it relies on to deliver critical health and human services to the county's vulnerable
14 populations, promote community resilience, and improve outcomes for individuals and families.
15

16 17. Pierce County brings the action as to the unlawful HUD Grant Conditions, the
17 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

18 18. Plaintiff Snohomish County is a home rule charter county organized and existing
19 under and by virtue of the constitution and the laws of the State of Washington.

20 19. Snohomish County relies on nearly \$16.7 million each year in CoC grant funds to
21 serve its homeless residents. Snohomish County annually receives formula grant funding from the
22 CDBG, ESG, and HOME programs and also applies for additional HUD funding from time to
23 time.
24

25 20. While the amount varies from year to year, Snohomish County relies on millions
26 of dollars in FAA grant funds annually to cover the costs of airport improvements at Paine Field
27

1 Airport. Snohomish County relies on DOT grant funds, including FHWA grant funds, every year
2 and has applied for \$34 million in FHWA grant funds and \$2 million in other DOT grant funds.
3 These grant funds would fund projects related to road and bridge improvements and improvements
4 to a solid waste rail facility.

5
6 21. Snohomish County relies on direct and pass-through HHS funds, totaling over \$29
7 million dollars in 2024, to fund HEAD Start and other services to seniors, individuals with
8 disabilities, and low-income residents throughout Snohomish County, as well as another \$9.4
9 million in HHS grant funds in 2025 and 2026 for public health services such as childhood lead
10 prevention and monitoring, opioid overdose prevention and treatment, tuberculosis treatment and
11 monitoring, and sexually transmitted infections treatment and contact tracing. Additional HHS
12 pass-through grant funds in the amount of nearly \$2.7 million dollars fund Snohomish County's
13 child support enforcement.

14
15 22. Snohomish County brings the action as to the unlawful HUD Grant Conditions, the
16 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

17
18 23. Plaintiff City and County of San Francisco ("San Francisco") is a municipal
19 corporation organized and existing under and by virtue of the laws of the State of California.

20
21 24. San Francisco relies on approximately \$240 million in active HUD entitlement and
22 discretionary grant funds to expand affordable housing opportunities, provide services to maintain
23 housing stability and reduce displacement for low- and moderate-income residents, and provide
24 housing and emergency shelter services to homeless residents, who numbered 8,323 during the
25 most recent count.

26
27 25. San Francisco also relies on nearly \$2.3 billion in DOT funding. This funding
includes nearly \$1.3 billion in FTA grants and nearly \$170 million in FHWA grants to provide

1 critical transit services and street improvements for the benefit of people traveling to, from, and
2 within San Francisco. Additionally, San Francisco anticipates receiving \$803 million in funding
3 from the FAA as part of its current capital improvement plan to fund critical rehabilitation,
4 replacement, and reconstruction projects related to taxiways, runways, terminals, and other airport
5 infrastructure.

6
7 26. San Francisco further relies on approximately \$325 million in active non-Medicaid and
8 Medicare HHS grant funding from virtually all HHS operating divisions, including approximately
9 \$148 million from the Administration for Children and Families (ACF), \$90 million from the Centers
10 for Disease Control and Prevention (CDC), \$48 million from HRSA, and \$19 million from the
11 Substance Abuse and Mental Health Services Administration (SAMHSA). This funding provides
12 critical financial assistance and/or other supportive services to assist low-income families, foster
13 families, and other vulnerable residents, such as refugees and asylees, those experiencing
14 homelessness, and those suffering from mental illness or substance abuse disorders. In addition, HHS
15 funding supports vital work to monitor, intervene, and respond to public health concerns, such as the
16 transmission of HIV, other sexually transmitted infections, and tuberculosis.

17
18 27. San Francisco brings the action as to the unlawful HUD Grant Conditions, the
19 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

20 28. Plaintiff County of Santa Clara (“Santa Clara”) is a charter county and political
21 subdivision of the State of California.

22 29. Santa Clara administers tens of millions of dollars each year in HUD grant funds to
23 serve the region’s approximately 10,000 homeless residents. Most recently, the Santa Clara County
24 Continuum of Care was awarded approximately \$47 million in grant funding in HUD CoC funds,
25 of which the County of Santa Clara is the direct recipient for approximately \$33 million. Santa
26

1 Clara annually receives approximately \$2–3 million in CDBG and HOME program funds
2 administered by HUD for programs that support community and economic development projects
3 that benefit low- and moderate- income residents, seniors, people with disabilities, and other
4 vulnerable populations. For the upcoming fiscal year, Santa Clara expects approximately an
5 additional \$9 million in funding administered by HUD, including CDBG, HOME, and other grants.
6

7 30. As relevant for purposes of this litigation, Santa Clara also has approximately \$208
8 million in grants and other funding for the present fiscal year from HHS that goes to Santa Clara’s
9 Social Services Agency to support child abuse prevention efforts, programs for foster youth,
10 adoption services, and programs for aging and/or disabled residents; in addition, as required by
11 California law, the Social Services Agency administers HHS grant-funded public benefits, such as
12 Temporary Assistance for Needy Families (TANF, known as “CalWORKS” in California). Santa
13 Clara’s healthcare system also receives at least \$68 million in HHS funding for public health
14 programs to prevent and address infectious disease, respond to toxins and biohazards, and support
15 maternal and child health; provide behavioral health services; and support the operations of Santa
16 Clara’s safety-net hospitals and clinics, including for the most vulnerable residents such as those
17 experiencing homelessness and those newly arriving as refugees and asylees.
18

19 31. Additionally, Santa Clara relies on significant federal funding from FHWA for
20 projects like bridge rehabilitation and repair, for which it currently has approximately \$140 million
21 in programmed federal funds and \$55 million in obligated federal funds, of which approximately
22 \$11.2 million has not yet been invoiced for reimbursement. Santa Clara receives these grant funds
23 indirectly pursuant to an agreement with the California Department of Transportation
24 (“CalTrans”).
25
26

1 32. Santa Clara brings this action as to the unlawful HUD Grant Conditions, the
2 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 33. Plaintiff City of Boston (“Boston”) is a municipal corporation organized under the
4 laws of the Commonwealth of Massachusetts.

5 34. Boston relies on nearly \$48 million annually in CoC grant funds to house and
6 stabilize residents exiting homelessness. Boston also receives approximately \$27 million in HUD
7 formula grants, including through the CDBG program, the HOME program, the Housing
8 Opportunities for Persons with AIDS (HOPWA) program, and the ESG program.

9 35. Boston also has applied for and received eight grants from DOT over the past four
10 years, and utilizes and relies upon over \$67 million in DOT funds administered by both the FHWA
11 and the FTA. These funds provide support for key infrastructure projects, pedestrian and vehicle
12 safety improvements, revitalization initiatives in underserved areas, and important connectivity
13 upgrades. These investments in city streets and infrastructure serve as the foundation of Boston’s
14 economy and of the ties among Boston’s neighborhoods.

15 36. Boston also receives millions of dollars through HHS and the CDC, largely as a
16 subrecipient of the Massachusetts Executive Office of Elder Affairs, to its Age Strong Commission
17 and the Boston Public Schools.

18 37. Boston brings the action as to the unlawful HUD Grant Conditions, the unlawful
19 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

20 38. Plaintiff City of Columbus (“Columbus”) is a municipal corporation organized
21 under Ohio law, see Ohio Const. art. XVIII. It is the capital of Ohio, its largest city, and the
22 fifteenth largest city in the United States, with a population of over 905,000 according to the 2020
23 U.S. Census.

1 39. Columbus receives millions of dollars from HUD, including through the CDBG,
2 HOME, HOPWA, and ESG programs. Columbus's Community Shelter Board, Columbus's CoC
3 designee, directly receives HUD CoC grant funds and receives an additional approximately \$1
4 million per year of HUD grant funds from the ESG and HOME programs which are passed through
5 from Columbus in order to provide crucial services to the city's and county's homeless residents.
6 Columbus also provides \$10 million annually to the Community Shelter Board from its general
7 revenue fund. Columbus additionally receives direct HUD funding for lead safety and for healthy
8 homes.
9

10 40. Since 2020, Columbus has been awarded over \$200 million from the FHWA in
11 both formula funding grants and discretionary grants.
12

13 41. Finally, Columbus receives millions in funding from HHS, including \$8 million to
14 its Central Ohio Area Agency on Aging from the Nutritional Services Incentive Program, and \$3.3
15 million from the RWHA program to Columbus's Department of Public Health, which helps
16 residents of the multi-county region living with HIV to achieve viral suppression. The RWHA Part
17 A program funds medical and supportive services, such as primary care, case management, and
18 housing programs.
19

20 42. Columbus brings the action as to the unlawful HUD Grant Conditions, the unlawful
21 DOT Grant Conditions, and the unlawful HHS Grant Conditions.
22

23 43. Plaintiff City of New York ("NYC") is a municipal corporation organized and
24 existing under the laws of the State of New York.
25

26 44. NYC, through its Department of Housing Preservation and Development, receives
27 approximately \$53 million in CoC funds to provide rental assistance for chronically homeless
households to reside in permanent supportive housing. As the collaborative applicant and

1 Homeless Management Information System (HMIS) lead agency for the New York City
2 Continuum of Care (“NYC CoC”), NYC, through its Department of Social Services (“NYC
3 DSS”), receives an additional approximately \$6 million in grants to provide technical and
4 administrative support to all of the programs in the NYC CoC. Additionally, NYC, through NYC
5 HPD, NYC DSS, NYC’s Department of Health and Mental Hygiene (“NYC DOHMH”), and other
6 NYC agencies, receives millions more in annual HUD funding through various programs,
7 including the ESG, CDBG, HOME, and HOPWA programs.
8

9 45. NYC, through several of its agencies, also receives hundreds of millions of dollars
10 in federal funding from components of the federal DOT, such as the FHWA and FTA, including
11 well over \$500 million to the New York City Department of Transportation (“NYC DOT”) as a
12 direct recipient or subrecipient of competitive and formula grants.
13

14 46. NYC receives millions of dollars in funding from HHS as well, including through
15 NYC DOHMH. This funding includes grants from HRSA to support HIV care and treatment and
16 supportive services for people with HIV/AIDS, a grant from CDC to support HIV prevention and
17 surveillance, grants from both HRSA and CDC to support NYC’s work on the federal Ending the
18 HIV Epidemic initiative, and multiple other grants from the CDC, SAMHSA, Administration for
19 Strategic Preparedness and Response (ASPR), and Office of the Assistant Secretary for Health
20 (OASH). Federal funds from HHS also flow and have flowed to NYC through other HHS
21 agencies, such as the ACF, National Institutes of Health (NIH), and Administration for
22 Community Living (ACL), including through competitive grants, formula funding, and/or block
23 grant funding.
24

25 47. NYC brings the action as to the unlawful HUD Grant Conditions, the unlawful
26 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

1 48. Plaintiff City & County of Denver (“Denver”) is a home rule city and county
2 organized and existing under the constitution and laws of the State of Colorado and the Denver
3 City Charter. Denver is the capital city of Colorado and the state’s largest city and county with a
4 population of 714,000 according to 2023 census data.

5
6 49. Denver receives multiple grants from HUD, including funding through the CDBG,
7 HOME, HOPWA, and ESG programs. In recent years, Denver has been awarded approximately
8 \$13 million in HUD grants each fiscal year. Through its Department of Housing Stability and its
9 Department of Economic Development and Opportunity, Denver uses these funds for
10 homelessness prevention, housing affordability, and to support essential community and economic
11 development.

12
13 50. Denver, through its Department of Aviation, is the owner and operator of the
14 Denver International Airport, the third busiest airport in the United States, and the sixth busiest
15 airport in the world. Denver receives hundreds of millions of dollars in FAA grant funds, \$130
16 million in FHWA grant funds, and also relies on approximately \$167 million in FTA grant funds
17 to provide critical transit services and improvements.

18
19 51. Denver also receives multiple grants from HHS, including funding through the
20 RWHA program. In recent years, Denver has received over \$7 million in RWHA Part A grants
21 each fiscal year. Through its Department of Public Health and Environment, Denver uses these
22 funds to provide essential public health services to community members throughout the Denver
23 region.

24 52. Denver brings the action as to the unlawful HUD Grant Conditions, the unlawful
25 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

1 53. Plaintiff the Metropolitan Government of Nashville & Davidson County
2 (“Nashville”) is a combined municipal corporation and county government organized and existing
3 under the laws of the State of Tennessee.

4 54. On March 11, 2025, Nashville received a notice of award for two FY 2024 HUD
5 CoC grants, for a total of \$289,354.

6
7 55. Nashville also receives significant DOT funding. For example, in May of 2025,
8 Nashville was awarded \$13 million for their “We Are Nolensville Pike” project, which would
9 provide for constructing critical improvements along a major roadway in Nashville to address
10 safety concerns under the Fiscal Year 2023 Safe Streets and Roads for All Grant program discussed
11 in further detail below. Nashville also relies on \$10 million in funding from DOT’s Strengthening
12 Mobility and Revolutionizing Transportation (SMART) discretionary grant program, which
13 supports advanced smart community technologies and systems in order to improve transportation
14 efficiency and safety.

15
16 56. Nashville also receives significant HHS funding. For example, in June 2025,
17 Nashville was awarded approximately \$16.8 million for its Head Start / Early Head Start programs,
18 which promote comprehensive school readiness by fostering children’s cognitive, social,
19 emotional, and physical development, while also strengthening family stability and economic
20 mobility. Nashville was also awarded approximately \$312,000 for the Healthy Start Initiative
21 Grant, which provides perinatal support services to pregnant women and recently delivered
22 families, including access to prenatal care, behavioral health care, education, and resource
23 navigation.

24
25 57. Nashville brings the action as to the unlawful HUD Grant Conditions, the unlawful
26 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

1 58. Plaintiff Pima County is a political subdivision organized and existing under and
2 by virtue of the constitution and laws of the State of Arizona, and home to more than a million
3 residents.

4 59. Pima County relies on approximately \$2 million each year in direct funding from
5 HUD CoC grant funds. These funds are used to serve Pima County’s homeless residents, who
6 number over 2,500 based on information collected by Pima County. Pima County also receives
7 approximately \$2.6 million in CDBG funds and approximately \$225,000 in ESG funds, both from
8 HUD.

9 60. Additionally, Pima County relies on federal transportation grants of more than \$75
10 million (approximately \$60.1 million federal; approximately \$15.6 local matching funds)—
11 including over \$240,000 in appropriated FTA grants, over \$2.6 million in FAA grants, over \$30.6
12 million in FHWA grants (programmed by Pima Association of Governments (PAG) and
13 administered through a Certified Accepted Agency Agreement with Arizona Department of
14 Transportation (ADOT)), over \$35.7 million in FHWA grants (direct), and over \$6.5 million
15 through FHWA’s Federal Lands Access Program to provide critical transit services and
16 transportation improvements for the benefit of Pima County residents. The funding at risk includes
17 both the federal grant amount and the required local match, \$60.1 million and \$15.6 million,
18 respectively. The local match comes from a variety sources included Pima County Highway User
19 Revenue Funds, Vehicle License Tax, Impact Fees, and Regional funding including Regional
20 Transportation Authority.

21 61. Pima County also relies on HHS grants valued annually at more than \$21 million,
22 with approximately \$7 million in direct grants and more than \$14 million in pass-through grants.
23

1 62. Pima County brings the action as to the unlawful HUD Grant Conditions, the
2 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 63. Plaintiff County of Sonoma (“Sonoma County”) is a political subdivision of the
4 State of California, organized and existing under the laws of California.

5 64. In its role as collaborative applicant, the County of Sonoma Department of Health
6 Services (“Sonoma DHS”) holds three active HUD CoC grants totaling more than \$1 million (CY
7 2025–2026). Sonoma DHS also oversees annual CoC project submissions in e-snaps, representing
8 approximately \$4.6 million in funding, the majority of which supports permanent supportive
9 housing for individuals who are chronically homeless, disabled, and have extended histories of
10 homelessness.

11 65. The county-run Airport receives approximately \$7 to \$10 million in DOT grants
12 every year, along with a longer-term construction grant totaling approximately \$20-\$22 million,
13 subject to funding and the number of phases required for completion. These DOT grants account
14 for approximately 40% of the Sonoma County Airport’s annual budget. The Sonoma County
15 Airport currently has eight approved active and obligated FAA grants collectively worth more than
16 \$11.8 million, of which \$8.7 million remains after draw-downs, and six pending grants from the
17 FAA, totaling \$7.7 million, for critical infrastructure projects that address critical safety and
18 security issues, including repairs to runways and wildlife fencing.

19 66. Sonoma County brings the action as to the unlawful HUD Grant Conditions and
20 the unlawful DOT Grant Conditions.

21 67. Plaintiff City of Bend (“Bend”) is municipal corporation with a home-rule all-
22 powers charter under the laws of the State of Oregon.

1 68. Bend applied for and was awarded \$5 million from HUD through its Pathways to
2 Remove Obstacles to Housing (PRO Housing) grant, most of which is made available to applicants
3 for various housing-related costs. Bend has been a CDBG entitlement jurisdiction since 2004; to
4 date, Bend has used over \$13.8 million in CDBG awards for critical city efforts related to domestic
5 violence and homeless services. Bend anticipates receiving an additional \$603,000 in CDBG funds
6 upon approval of its 2025–26 CDBG Annual Action Plan.

7
8 69. Bend has been awarded over \$33 million in FRA grants to enhance safety and
9 connectivity at roadway-rail crossings. Additionally, in connection with Bend’s city-owned and
10 operated airport, Bend anticipates about \$10.1 million in federal funds from the FAA for 2025
11 through 2029.

12 70. Bend brings the action as to the unlawful HUD Grant Conditions and the unlawful
13 DOT Grant Conditions.

14 71. Plaintiff City of Cambridge (“Cambridge”) is a municipal corporation organized
15 under the laws of the Commonwealth of Massachusetts.

16 72. Cambridge relies on nearly \$6.4 million annually in CoC grant funds to house and
17 stabilize residents exiting homelessness. Cambridge also receives significant funding from several
18 other HUD grants in FY 2024 and FY 2025, which support programs and services that directly
19 benefit the city and its residents. These funds include a \$2,638,641 CDBG grant allocation for FY
20 2025, and a \$2,395,799 HOPWA grant allocation for FY 2025.

21 73. Cambridge also receives federal funding from DOT, which supports a variety of
22 public infrastructure projects. Cambridge recently received, through DOT, a Reconnecting
23 Communities & Neighborhoods (RCN) grant to design a pedestrian and bicycle bridge over the
24 Fitchburg MZBTA Commuter Rail tracks in North Cambridge. The area is currently difficult for

1 residents and pedestrians to travel due to adjacent roadways and the MBTA rail tracks.

2 74. In addition, Cambridge also receives federal funding from HHS's Low-Income
3 Home Energy Assistance Program (LIHEAP) as a pass-through grant from the Massachusetts
4 Executive Office of Housing and Livable Communities (EOHLC). This funding is vital to support
5 fuel assistance programs for low-income residents.
6

7 75. Cambridge brings the action as to the unlawful HUD Grant Conditions, the
8 unlawful DOT Conditions, and the unlawful HHS Grant Conditions.

9 76. Plaintiff City of Chicago ("Chicago") is a municipal corporation and home rule unit
10 organized and existing under the constitution and laws of the State of Illinois.

11 77. On average, the Chicago Department of Transportation (CDOT) relies on
12 approximately \$92 million each year in FTA grants and \$74 million each year in FHWA grants.
13 The Chicago Department of Aviation (CDA) likewise relies on millions of dollars in FAA grants.
14 In 2023, CDA received and relied on \$94.7 million in FAA awards. In 2024, CDA received and
15 relief on \$112.9 million from FAA. These funds are critical to the safety and wellbeing of
16 Chicagoans and people who travel to or through Chicago.
17

18 78. Chicago also relies on millions of dollars in grants from HUD and HHS each year.
19 For FY 2025, Chicago anticipates receiving \$329,849,000 in HUD funds (including carryover
20 amounts) and \$668,884,000 in HHS funds (including carryover amounts). These funding sources
21 support several citywide programs for vulnerable Chicagoans. For example, in 2024, Chicago's
22 Department of Family and Support Services (DFSS) used HUD funding from CDBG, ESG, and
23 HOME grants to serve 435,225 at-risk Chicagoans by supporting food banks, homeless shelters,
24 and developing affordable rental housing options. Chicago also receives HRSA grants in the
25 amount of \$27,817,885 million from the HIV Emergency Relief Project and \$4,653,437 from the
26

1 RWA program. These funds are used to provide clinical and non-clinical services for people with
2 HIV and to engage individuals with HIV into care and medical treatment.

3 79. Chicago brings the action as to the unlawful HUD Grant Conditions, the unlawful
4 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

5 80. Plaintiff City of Culver City (“Culver City”) is a charter city and a municipal
6 corporation organized and existing under the Constitution and laws of the State of California.

7 81. Culver City has been awarded approximately \$177,484 from HUD through the
8 CDBG Program for FY 2025–26.

9 82. Additionally, Culver City relies on substantial federal grants—including
10 approximately \$40 million in FTA grants—to purchase buses and provide critical transit services
11 for the benefit of Culver City residents.

12 83. Culver City brings the action as to the unlawful HUD Grant Conditions and the
13 unlawful DOT Grant Conditions.

14 84. Plaintiff the City of Minneapolis (“Minneapolis”) is a municipal corporation
15 organized and existing under and by virtue of the laws of the State of Minnesota. It is a home rule
16 charter city.

17 85. Minneapolis receives approximately \$17 million each year in formula grant funding
18 HUD, primarily through four key HUD programs: CDBG, ESG, HOPWA, and HOME. HUD
19 funds support numerous important city projects, including building new and rehabilitating existing
20 affordable housing, addressing blight, youth violence intervention services, and lead poisoning
21 response and hazard reduction.

22 86. Minneapolis is expecting more than \$150 million in federal funding for upcoming
23 capital improvement projects, the vast majority of which is from DOT, including grants

1 administered by DOT directly and others administered by the FHWA and FRA.

2 87. Every year, Minneapolis has been awarded federal grant funds to support public
3 health in Minneapolis, including from HHS, and currently Minneapolis is supporting programs
4 and services with more than \$20 million in grants from HHS and its operating divisions and
5 agencies. For example, Minneapolis currently has a grant from the CDC in the amount of
6 \$5,757,591, to develop foundational public health infrastructure, focus on developing and retaining
7 the public health workforce, and increase the capacity to meet the public health needs over several
8 years. Minneapolis also has a \$3.9 million grant from the ACF, passed through the Minnesota
9 Department of Health. This funding supports family home visiting, teen pregnancy prevention,
10 and/or Women, Infants, Children (WIC) nutritional services to families at or below 200 percent of
11 federal poverty guidelines who are at risk of child abuse and neglect.
12

13
14 88. Minneapolis brings this action as to the unlawful HUD Grant Conditions, the
15 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

16 89. Plaintiff City of Pittsburgh (“Pittsburgh”) is a home rule charter city organized and
17 exiting under the laws and Constitution of the Commonwealth of Pennsylvania. Pittsburgh is a city
18 of the second class.

19 90. Pittsburgh receives approximately \$18 million in HUD block grant funds annually,
20 including through the CDBG, ESG, and HOME programs, as well as other direct HUD funding.
21

22 91. Pittsburgh is currently relying on nearly \$5 million in competitive DOT grant funds
23 to serve its residents by funding necessary infrastructure projects in Pittsburgh. The grant funds
24 from DOT—issued through the FHWA—support improvements to essential infrastructure, such
25 as roads and, notably, bridges. Pittsburgh has hundreds of bridges and such infrastructure funding
26 is necessary to the safety of its residents.

1 92. Pittsburgh brings this action as to the unlawful HUD Grant Conditions and the
2 unlawful DOT Grant Conditions.

3 93. Plaintiff City of Portland (“Portland”) is a home rule charter city organized and
4 existing under and by virtue of the constitution and laws of the State of Oregon.

5 94. Portland relies on significant federal funding, including over \$130 million in grants
6 from HUD and over \$193 million in grants from DOT. By way of example, Portland has over \$14
7 million in annual distributions of HUD grants for affordable housing and supportive services for
8 low-income people and people living with disabilities, as well as for small business and economic
9 development programs.

10 95. Portland’s DOT grants include a \$500,000 FRA grant, to plan safety improvements
11 at fifteen railroad crossings, and a \$9.6 million FHWA grant award.

12 96. Portland brings the action as to the unlawful HUD Grant Conditions and the
13 unlawful DOT Grant Conditions.

14 97. Plaintiff City of San José (“San José”) is a municipal corporation and charter city
15 organized and existing under and by virtue of the laws of the State of California.

16 98. San José has been awarded approximately \$21.4 million in FHWA grants under the
17 Safe Streets and Roads for All program, described further below, to improve street safety and was
18 awarded approximately \$8.7 in FRA grants under the Consolidated Rail Infrastructure and Safety
19 Improvements program. In addition, San José’s city-operated airport is relying on \$31.1 million in
20 FAA grant funding through 2030 for the maintenance and operation of the airport, as well as
21 anticipating \$89.2 million in capital improvement funding over the next five years.

22 99. San José receives funding from HUD in the form of CDBG, HOME, ESG, and
23 HOPWA grants. It relies on this funding to provide services to its community, and it anticipates

1 receiving approximately \$52 million in HUD funding through 2033. San José also relies on HUD
2 CoC funds received by Santa Clara to serve the city’s homeless population.

3 100. San José brings the action as to both the unlawful HUD Grant Conditions and the
4 unlawful DOT Grant Conditions.

5 101. Plaintiff City of Santa Monica (“Santa Monica”) is a municipal corporation and
6 California charter city, organized and existing by virtue of the laws of the State of California.

7 102. Santa Monica relies on approximately \$16 million in FTA grant funds to provide
8 transit services for the benefit of Santa Monica residents, workers, and visitors, and has been
9 awarded up to \$30 million under CalTrans’s Highway Bridge Program funded by FHWA grant
10 funds to improve the over 85-year-old Santa Monica Pier Bridge.

11 103. Santa Monica additionally relies on over \$1.1 million in HUD CDBG funding for
12 projects to provide lower- and moderate-income households with viable communities, including a
13 suitable living environment and expanded economic opportunities, and over \$500,000 in HUD
14 HOME funding for rental subsidies for qualifying low-income families at risk of losing housing.

15 104. Santa Monica brings the action as to the unlawful HUD Grant Conditions and the
16 unlawful DOT Grant Conditions.

17 105. Plaintiff City of Pasadena (“Pasadena”) is a home rule charter city organized under
18 the laws of the State of California.

19 106. Pasadena relies on over \$37 million annually in funding from HUD grants,
20 including over \$5 million each year in HUD CoC grant funds to serve its homeless residents, as
21 well as CDBG, ESG, HOPWA, HOME, and Section 8 Housing Choice Voucher grants to support
22 numerous housing initiatives within the city.
23
24
25
26

1 107. Pasadena also relies on over \$6 million in funding from DOT grants, including
2 FHWA’s Safe Streets and Roads for All grants, to provide critical transportation services and
3 improvements within the city.

4 108. Pasadena brings the action as to both the unlawful HUD Grant Conditions and the
5 unlawful DOT Grant Conditions.

6 109. Plaintiff City of Tucson (“Tucson”) is a home rule charter city organized and
7 existing under the constitution and laws of the State of Arizona.

8 110. Tucson receives approximately \$20 million in annual formula grants from the FTA
9 for the operation of its transit system. It also relies on substantial FTA discretionary grants to make
10 much-needed improvements to its transit system equipment and infrastructure. That includes
11 approximately \$33 million in FY 2023 and FY 2024 grants for new buses and upgrades to bus
12 facilities. Tucson also relies on FHWA formula and discretionary grants for large transportation
13 infrastructure projects and has approximately \$45.5 in awarded discretionary grant funds between
14 FY2025 and FY2029.

15 111. Tucson receives approximately \$75–80 million in HUD funding per year. For
16 example, Tucson is the Collaborative Applicant for the CoC for the Tucson metropolitan area, the
17 members of which were collectively awarded more than \$14.5 million in CoC funding in January
18 2025. Of this amount, Tucson is the direct recipient of more than \$6.1 million. With a large
19 homeless population and extremely hot summers, combatting homelessness and protecting the
20 unsheltered is both a high priority and a significant challenge for the community. Tucson also is
21 awarded approximately \$10.5 million in HUD formula grants (CDBG, ESG, HOME, and
22 HOPWA) each year. The Tucson-Pima County public housing programs, which are administered
23 by Tucson, receive approximately \$66.5 million in annual HUD funding. Tucson also receives

1 various discretionary grants from time to time; one recent example is a 2024 \$4,050,000 Lead
2 Hazard Reduction Program grant.

3 112. Tucson, through its Tucson City Court (TCC), receives HHS SAMHSA funding to
4 pay for substance abuse treatment, mental/behavioral health treatment, peer support services, and
5 a mentor program for certain veterans and active members of the United States Military who are
6 neither VA eligible nor have insurance. In September 2025, TCC was allocated \$684,839 for FY
7 2025-26 and FY 2026-27.

8
9 113. Tucson brings the action as to the unlawful HUD Grant Conditions, the unlawful
10 DOT Grant Conditions, and the unlawful HHS Grant Conditions .

11 114. Plaintiff City of Wilsonville (“Wilsonville”) is a home rule charter city organized
12 and existing under and by virtue of the constitution and laws of the State of Oregon.

13
14 115. The City of Wilsonville, through its municipal transit department, South Metro
15 Area Regional Transit, relies on approximately \$1 million each year in FTA grant funds to provide
16 critical transit services and improvements for the benefit of Wilsonville residents, employees,
17 employers, and visitors. Wilsonville also frequently receives competitive grant funds from the
18 FTA.

19 116. Wilsonville’s Community Center, managed by its Parks and Recreation
20 Department, also receives pass-through funds from the HHS ACL pursuant to the Older Americans
21 Act to provide nutrition services, outreach, assessment, information and assistance, case
22 management, reassurance, health promotion and legal consultation for Clackamas County
23 residents aged 60 and older. For FY 2024–25, Wilsonville was awarded \$135,320 in HHS pass-
24 through funds, and was awarded a total of \$254,520 through FY 2026–27.

1 117. Wilsonville brings the action as to the unlawful DOT Grant Conditions and the
2 unlawful HHS Grant Conditions.

3 118. Plaintiff Central Puget Sound Regional Transit Authority (“Sound Transit”) is a
4 regional transit authority that serves the Sound Transit District, which encompasses areas in King,
5 Pierce, and Snohomish counties. Sound Transit is organized and existing under and by virtue of
6 the laws of the State of Washington.

7 119. Sound Transit relies on substantial federal grants—approximately \$1 billion in
8 DOT grants in 2025 including from the FTA, FHWA, and FRA—to provide critical transit services
9 and improvements for the benefit of approximately 3,385,200 million people who reside within
10 the Sound Transit District.

11 120. Sound Transit brings the action only as to the unlawful DOT Grant Conditions.

12 121. Plaintiff Intercity Transit is a public transportation agency organized under RCW
13 36.57A as a municipal corporation and existing under and by virtue of the laws of the State of
14 Washington to serve a Public Transportation Benefit Area (PTBA).

15 122. Intercity Transit provides transportation and transit options that connect cities and
16 areas within Thurston County, including Olympia, Lacey, Tumwater, and Yelm. Intercity Transit
17 relies on more than \$27 million in FTA grant funds to provide critical transit services and
18 improvements for the benefit of residents of the Thurston County PTBA, as well as a \$2 million
19 DOT SMART grant.

20 123. Intercity Transit brings the action only as to the unlawful DOT Grant Conditions.

21 124. Plaintiff Port of Seattle is a municipal corporation organized and existing under and
22 by virtue of the laws of the State of Washington.

1 125. The Port of Seattle owns and operates the Seattle-Tacoma International Airport, the
2 largest airport in the State of Washington and the 11th busiest airport in the country based on 2023
3 passenger statistics. The Port of Seattle relies on substantial federal grant funding—including more
4 than \$164.5 million in appropriated FAA grants—for critical capital projects.

5 126. The Port of Seattle brings the action only as to the unlawful DOT Grant Conditions.

6 127. Plaintiff King County Regional Homelessness Authority (“King County RHA”) is
7 a government agency formed by the City of Seattle and King County and is organized and existing
8 under and by virtue of the laws of the State of Washington.

9 128. King County RHA coordinates the CoC funds for the King County area, including
10 directly administering \$26 million of those funds for emergency shelter, transitional housing, and
11 other programs.

12 129. King County RHA brings the action only as to the unlawful HUD Grant Conditions.

13 130. Plaintiff Santa Monica Housing Authority (“Santa Monica HA”) is a housing
14 authority organized under the laws of the State of California and created by resolution of the Santa
15 Monica City Council.

16 131. Santa Monica HA relies on over \$22 million annually in funding for Section 8
17 Housing Choice Vouchers, over \$1 million annually in funding for Emergency Housing Vouchers,
18 and \$5.6 million annually (as of 2025) in CoC funds to support rental assistance for individuals
19 and families experiencing or formerly experiencing homelessness.

20 132. Santa Monica HA brings this action only as to the unlawful HUD Grant Conditions.

21 133. Plaintiff San Francisco County Transportation Authority (“SFCTA”) is a county-
22 level transportation agency existing under and by virtue of the laws of the State of California. It is
23 a separate legal entity from the City and County of San Francisco.

1 134. As the designated county congestion management agency for San Francisco,
2 SFCTA develops long-range countywide transportation plans to guide development of the
3 transportation sector. It also administers the proceeds from San Francisco’s dedicated local sales
4 tax for transportation. SFCTA currently relies on more than \$107 million in FHWA grants, of
5 which approximately \$10.4 million has been programmed but not yet been obligated. SFCTA
6 relies on FHWA funding to provide critical transportation planning and improvements for the
7 benefit of people traveling to, from, and within San Francisco. SFCTA has applied for additional
8 FHWA funding and plans to seek further FHWA funding in the future. It anticipates continuing to
9 receive formula subgrants through state and regional entities and applying for additional
10 discretionary competitive grants.
11

12 135. SFCTA brings this action only as to the unlawful DOT Grant Conditions.

13
14 136. Plaintiff Treasure Island Mobility Management Agency (“TIMMA”) is a
15 transportation agency existing under and by virtue of the laws of the State of California. Pursuant
16 to State law, the San Francisco Board of Supervisors has designated SFCTA as the agency to act
17 as the TIMMA. TIMMA is a separate legal entity from the City and County of San Francisco and
18 from SFCTA.

19
20 137. TIMMA is responsible for developing and implementing a comprehensive
21 transportation program for Treasure Island, defined also to include Yerba Buena Island. TIMMA
22 currently relies on funding from FHWA to provide critical transportation improvements.

23 138. TIMMA brings this action only as to the unlawful DOT Grant Conditions.

24 139. Plaintiff County of Alameda (“Alameda County”) is a charter county and political
25 subdivision of the State of California.
26

1 140. Alameda County relies HUD grant funds to serve its most vulnerable residents,
2 including an estimated 9,450 homeless residents. For example, Alameda County budgeted for
3 more than \$40 million in HUD grants annually in fiscal years 2024–25 and 2025–26. HUD also
4 provides additional funds to Alameda County, which the county administers and distributes to
5 cities, community based organizations, and other community partners serving its residents. A
6 significant portion of Alameda County’s HUD funding comes from the CoC program.
7

8 141. Alameda County also relies on funding from DOT, largely provided indirectly
9 through the State of California, to support a number of infrastructure projects, including road,
10 shoulder, and sidewalk repair, updating drainage inlets, and developing traffic and water pollution
11 control plans. For example, Alameda County budgeted for well over \$10 million in DOT funding
12 in fiscal years 2024–25 and 2025–26. Because some projects supported by DOT funds progress
13 over multiple years, some DOT funds may not be spent during a fiscal year in which they are
14 budgeted, in which case those funds are budgeted for use in the next fiscal year.
15

16 142. Alameda County also relies on funding from HHS to support a variety of programs
17 and services, including substance abuse treatment, housing support, behavioral and mental health
18 programs, food insecurity initiatives, and child and family support services, to name just a few.
19 For example, Alameda County budgeted for more than \$60 million in HHS grants annually in
20 fiscal years 2024–25 and 2025–26. Alameda County also receives substantial funding indirectly
21 from HHS, including HHS funds passed through the State of California. In fiscal years 2024–25
22 and 2025–26, Alameda County budgeted for more than \$200 million in such indirect HHS funds.
23

24 143. Alameda County brings this action as to the unlawful HUD Grant Conditions, the
25 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.
26

1 144. Plaintiff City of Albuquerque (“Albuquerque”) is a municipal corporation
2 organized and existing under the laws of the State of New Mexico. Albuquerque is the largest
3 municipality in the State of New Mexico, serving more than 560,000 residents.

4 145. Albuquerque administers more than \$10.3 million in HUD grant funding, including
5 direct and pass-through grants, including \$3.7 million in CoC grant funds, \$4.4 million in the
6 CDBG grant funds, \$1.9 million in HOME grant funds, more than \$370,000 in ESG grant funds,
7 and more. These funds are used to support services and housing vouchers for Albuquerque’s
8 unhoused and precariously housed residents.
9

10 146. Albuquerque also relies on more than \$10 million in federal DOT grants from the
11 FTA and FHWA, including direct and pass-through grants, to improve and maintain
12 Albuquerque’s roads and transit infrastructure.
13

14 147. Albuquerque brings this action as to the unlawful HUD Grant Conditions and the
15 unlawful DOT Grant Conditions.

16 148. Plaintiff the Mayor and City Council of Baltimore (“Baltimore”) is a municipal
17 corporation, organized pursuant to Articles XI and XI-A of the Maryland Constitution, and
18 entrusted with all of the powers of local self-government and home rule afforded by those articles.
19

20 149. Baltimore’s current open grants with the federal government include HUD grants
21 in the amount of \$514,491,841, HHS grants in the amount of \$399,736,406, and DOT grants in
22 the amount of \$184,000,000. These funds support an array of critical programs.

23 150. For example, Baltimore, through its Mayor’s Office of Homeless Services
24 (“Baltimore MOHS”), receives approximately \$33 million in HUD CoC funds to provide
25 permanent supportive housing, rapid rehousing, and transitional housing programs to individuals
26 experiencing homelessness. Baltimore MOHS also receives approximately \$7 million in HOPWA
27

1 funding from HUD to help house low-income persons that are medically diagnosed with
2 HIV/AIDS and their families.

3 151. Additionally, Baltimore’s Department of Transportation relies on significant
4 federal funding from FHWA for infrastructure and traffic-related projects, receiving approximately
5 \$42 million annually, along with supplemental grants—like a recent \$85.5 million Reconnecting
6 Communities Grant—for specific repair and rehabilitation projects.

7
8 152. Lastly, Baltimore’s Health Department receives approximately \$16 million in
9 RWHA Part A funding from HHS to ensure access to essential care and services for the over
10 11,000 individuals living with HIV who are un- or under-insured.

11 153. Baltimore brings this action as to the unlawful HUD Grant Conditions, the unlawful
12 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

13
14 154. Plaintiff City of Bellevue (“Bellevue”) is a municipal corporation organized under
15 the laws of the State of Washington.

16 155. Bellevue relies on a number of federal grant programs to serve its approximately
17 160,000 residents and support the economic vitality of the Puget Sound Region. Bellevue receives
18 HUD funding through the CDBG program, including \$879,477 approved and expected for FY
19 2025. This funding will support vital programs such as a home repair assistance program and
20 public services to homeless individuals in the community. Bellevue was also awarded \$500,000
21 for FY 2024 through HUD’s Community Project Funding.

22
23 156. Bellevue receives approximately \$4 million in direct funding from DOT and
24 FHWA for FY 2024 and earlier grants, and relies on its ability to continue to draw down on these
25 funds to improve roadway safety in the region through road safety audits, speed studies,
26 developing separated bike lanes, supporting traffic signal enhancements for pedestrians and

1 bicyclists, and developing speed safety camera procedures. Bellevue has also been awarded almost
2 \$34 million in pass-through funding for FY 2025–2027 from DOT and FHWA through regional
3 and state grant programs. This funding provides vital financial support to transportation projects
4 supporting pedestrian accessibility and safety, as well as local and regional trails and bridges.
5 Bellevue is also receiving over \$26 million in DOT pass-through funding for FY 2024 and earlier.

6
7 157. Bellevue brings this action as to the unlawful HUD Grant Conditions and unlawful
8 DOT Grant Conditions.

9 158. Plaintiff City of Bellingham (“Bellingham”) is a municipal corporation organized
10 and existing under the laws of the State of Washington.

11 159. Bellingham, through its Planning and Community Development Department,
12 Housing and Services Program, receives approximately \$1,323,865 in HUD funds for its CDBG
13 and HOME programs. CDBG funds provide basic needs services, including food distribution,
14 basic chore assistance for homebound seniors and disabled persons, support for children who have
15 experienced violence or neglect, and domestic violence prevention for the benefit of low-income
16 individuals and households. CDBG funds also provide home rehabilitation, and community
17 facilities improvements for the benefit of low-income households and individuals. HOME funds
18 provide housing services, including rental assistance, housing case management, downpayment
19 assistance for first-time homebuyers, and capital development for affordable housing to benefit
20 low-income individuals and households.
21

22
23 160. Bellingham also receives approximately \$4.3 million annually in federal funding
24 from DOT and its OAs, almost exclusively as a pass-through from Washington State DOT.
25 Further, Bellingham’s Police Department has just applied for \$3 million in DOT Safe Streets and
26 Roads for All (SS4A) funding to implement a program to prevent traffic deaths.

1 161. Bellingham brings the action as to the unlawful HUD Grant Conditions and the
2 unlawful DOT Grant Conditions.

3 162. Plaintiff City of Bremerton (“Bremerton”) is a first-class charter city organized and
4 existing under the laws of the State of Washington.

5 163. Bremerton, through its Department of Community Development, receives and
6 administers approximately \$381,000 in HUD CDBG funds to assist in community development
7 capital improvements, home weatherization, and job training programs. Bremerton also receives
8 approximately \$212,000 in HUD HOME grants to assist in the development of housing.

9 164. Bremerton relies on DOT formula and discretionary grants administered through
10 FHWA for transportation infrastructure projects, as both a direct recipient and subrecipient,
11 including \$3.3 million in FHWA grant funds through Fiscal Year 2028 and additional grants
12 expected.

13 165. Bremerton brings the action as to the unlawful HUD Grant Conditions and the
14 unlawful DOT Grant Conditions.

15 166. Plaintiff County of Dane (“Dane County”) is a political subdivision organized and
16 operating under the laws of the State of Wisconsin.

17 167. Dane County relies on approximately \$1,670,021 each year in HUD CoC grant
18 funds to serve its homeless residents. Dane County receives another approximately \$7,789,468 in
19 HUD grant funding through the CDBG and HOME programs.

20 168. Dane County’s Department of Human Services also relies on millions of dollars in
21 funding from HHS, including \$13,735,370 from Social Services Block Grants and \$1,554,631
22 from Child Care and Development Block Grants. These funds are used to support child welfare,
23 services for older adults and individuals with disabilities, and child care assistance for low-income
24

1 families. Dane County also uses \$1,831,770 of HHS funding to support Area Agency on Aging
2 supportive services, nutrition and meals programs, family caregiver support, and disease
3 prevention.

4 169. Additionally, Dane County receives approximately \$15 million annually in FAA
5 grants to fund improvements at the Dane County Regional Airport, and approximately \$400,000
6 in FHWA grant funds from the DOT for a Comprehensive Highway Safety Action Plan.
7

8 170. Dane County brings this action to challenge the unlawful HUD Grant Conditions,
9 unlawful DOT Grant Conditions, and unlawful HHS Grant Conditions.

10 171. Plaintiff City of Eugene (“Eugene”) is a home rule charter city organized and
11 existing under and by virtue of the constitution and laws of the State of Oregon.

12 172. Through FY 2023–2027, Eugene received, or expects to receive, over \$61 million
13 in DOT grants administered by the FHWA for transportation and infrastructure projects that
14 benefit Eugene residents, businesses, and visitors. As the sponsor of the Eugene Airport, Eugene
15 also receives approximately \$9.2 million in annual DOT grants for airport operations and, between
16 2025–2029, expects to receive more than \$49 million in additional DOT funding for programmed
17 airport infrastructure projects.
18

19 173. Eugene also relies on HUD CDBG and HOME grants to further local housing
20 opportunities. For FY 2025, HUD has confirmed Eugene’s eligibility for CDBG formula grants of
21 \$1,483,454 and, as the lead agency for the Eugene-Springfield HOME Consortium, an additional
22 \$1,150,062 in HOME formula grants on behalf of consortium members.
23

24 174. Eugene also receives millions in federal assistance through HHS to fund critical
25 public health initiatives.
26

1 175. Eugene brings the action as to the unlawful HUD Grant Conditions, the unlawful
2 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 176. Plaintiff City of Healdsburg (“Healdsburg”) is a municipal corporation and general
4 law city organized and existing under and by virtue of the laws of the State of California.

5 177. Healdsburg has current grant agreements for approximately \$861,820 in DOT
6 funds supporting infrastructure projects improving the streets in Healdsburg to contribute to the
7 safety and well-being of drivers and pedestrians who live in and visit Healdsburg. In addition,
8 Healdsburg anticipates receiving approximately \$2.2 million in DOT grants to help fund two large
9 projects upgrading streets throughout Healdsburg to improve the safety and public health of all
10 community members; without these funds, Healdsburg cannot complete these projects. Healdsburg
11 also regularly receives DOT and FAA grant funding for maintenance and improvements at the
12 Healdsburg Municipal Airport, which is used for private aviation, as well as for staging, landing
13 and take-off by firefighters and other emergency personnel for emergency events in all of Sonoma
14 County. Healdsburg has submitted DOT grant applications and received a preliminary notice of
15 approval for nearly \$600,000 for critical improvements and rehabilitation of the airport runways.

16 178. Healdsburg brings this action only as to the unlawful DOT Grant Conditions.

17 179. Plaintiff County of Hennepin (“Hennepin County”) is a political subdivision of the
18 State of Minnesota.

19 180. Hennepin County’s calendar year 2025 budget includes \$271,751,382 in direct
20 federal funding. Of this amount, Hennepin County budgeted \$16,812,799 from HUD to fund
21 services such as emergency shelter, rapid rehousing, and lead abatement in homes; \$15,838,367
22 from DOT to fund various road projects; and \$136,093,272 in non-Medicaid funds from HHS for
23 critical safety net services and to administer federal programs. Hennepin County receives
24

1 additional federal funding, including from HUD, DOT, and HHS, through grants administered by
2 the State of Minnesota and its political subdivisions.

3 181. Hennepin County brings this action as to the unlawful HUD Grant Conditions, the
4 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

5 182. Plaintiff Kitsap County is a county organized and existing under and by virtue of
6 the constitution and laws of the State of Washington.

7 183. Kitsap County relies on \$1.76 million annually (as of 2025) in HUD CDBG and
8 HOME funds—\$1,093,594 in CDBG and \$668,553 in HOME—to support services for low- and
9 very low-income households. These funds are used for downpayment assistance, creation and
10 preservation of affordable rental housing, homeownership rehabilitation and weatherization, food
11 banks, childcare and afterschool programs, and microenterprise business assistance.

12 184. In addition, Kitsap County’s Transportation Improvement Program for 2025–2030
13 identifies \$68.9 million in total federal transportation grant funding, including \$5.26 million in
14 currently obligated grants, \$35.16 million in awarded but not yet obligated funding, and \$28.5
15 million in anticipated future awards. These DOT funds, representing approximately 47% of the
16 county’s Transportation Improvement Program budget, support critical infrastructure projects,
17 pedestrian and vehicle safety improvements, and revitalization initiatives in underserved areas.

18 185. Kitsap County brings the action as to both the unlawful HUD Conditions and the
19 unlawful DOT Grant Conditions.

20 186. Plaintiff City of Los Angeles (“Los Angeles”) is a charter city and municipal
21 corporation organized and existing under the constitution and laws of the State of California and
22 the Los Angeles City Charter. Los Angeles is home to nearly 4 million people and hosts about 50
23 million visitors per year.

1 187. Los Angeles is relying on nearly \$100 million in HUD grants to address the housing
2 and community development needs of the city’s most vulnerable populations, specifically through
3 CDBG, HOME, ESG, and HOPWA funding. These programs provide emergency shelter and
4 support for low- and moderate-income individuals at risk of falling into homelessness, which is of
5 paramount importance to Los Angeles’ ongoing response to the homelessness crisis.
6

7 188. Los Angeles also counts on federal funding to operate, maintain, and improve its
8 vital transportation systems to serve the needs of its residents and visitors. In 2024, Los Angeles
9 received \$127.5 million in federal DOT grants which were used to operate and maintain the city’s
10 airports, including Los Angeles International Airport, and to make necessary safety and efficiency
11 improvements and enhancements to this vital international hub. For 2025 and future years, DOT
12 has awarded, but not yet obligated, more than \$55 million to Los Angeles for its airports, and a
13 request for more than \$65 million in grant funding is pending. Los Angeles has also been awarded
14 over \$124 million in obligated FTA grants, and has been allocated \$72,964,700 in FTA formula
15 grants for fiscal years 2020 through 2025.
16

17 189. Los Angeles brings this action as to the unlawful HUD Grant Conditions and the
18 unlawful DOT Grant Conditions.

19 190. Plaintiff City of Milwaukee (“Milwaukee”) is a municipal corporation organized
20 and existing under the laws of the State of Wisconsin.
21

22 191. Based on information prepared for Milwaukee’s 2024 Single Audit Report,
23 Milwaukee administers approximately \$206 million direct, active HUD grant awards. These funds
24 are used, for example, for affordable housing, emergency housing, continuum of care services, and
25 housing for people with HIV/AIDS, and lead hazard reduction.
26

1 192. Based on departmental records, Milwaukee currently administers approximately
2 \$16 million in direct, active grant awards from HHS, and while the number fluctuates, currently
3 another \$11 million federal pass-through HHS funds. These funds are used, for example, to
4 manage health disparities, expand public health infrastructure, respond and prepare for infectious
5 disease, prevent violence, and advance health literacy.
6

7 193. Based on information prepared for Milwaukee’s 2024 Single Audit Report,
8 Milwaukee administers approximately \$74 million direct, active grant awards from DOT. Based
9 on departmental records, Milwaukee also administers between approximately \$25 million to \$65
10 million annually in DOT pass through funding. These funds support highway planning and
11 construction, refuse packing, public transportation, traffic speed and safety enforcement, and
12 addressing impaired driving. The Port of Milwaukee also administers a subset of these DOT funds
13 for port infrastructure work.
14

15 194. Milwaukee brings the action as to the unlawful HUD Grant Conditions, the
16 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

17 195. Plaintiff Milwaukee County is a municipal body corporate and political subdivision
18 organized and existing under the laws of the State of Wisconsin.

19 196. Milwaukee County, through its Department of Transportation, owns and operates
20 the Milwaukee Mitchell International Airport (“MKE”). MKE is the largest airport in Wisconsin,
21 with approximately 6.3 million passengers traveling from MKE in 2024. Milwaukee County relies
22 on substantial federal grant funding for critical capital projects at MKE to serve the traveling
23 public. These needs are both long-term and immediate. For example, in federal fiscal years 2025
24 and 2026, Milwaukee County’s plan of financing is premised on federal grants providing over \$57
25 million in capital funding for projects including terminal redevelopment and airfield rehabilitation
26

1 and improvements.

2 197. Milwaukee County brings the action only as to the unlawful DOT Grant Conditions.

3 198. Plaintiff Multnomah County is a charter home rule county organized under the laws
4 of the State of Oregon.

5 199. Multnomah County relies on over \$39 million each year in HUD CoC grant funds,
6 that flow either directly to Multnomah County's Homeless Services Department or to community
7 nonprofit providers, to house nearly 2,500 individuals and operate the county's homeless services
8 infrastructure. These grant funds are critical to supporting the 15,000 unhoused residents of
9 Multnomah County with rental assistance and supportive services.

10 200. Multnomah County's Department of Community Services also receives federal
11 DOT dollars, directly and through pass-through/intergovernmental agreements. For FY 2025
12 Multnomah County budgeted for approximately \$8 million in DOT grant funds to fund capital
13 improvements to roads and bridges and for planning of upcoming renovation of the Burnside
14 Bridge. For FY 2026, Multnomah County has budgeted for \$25.6 million in DOT grant funds.

15 201. Multnomah County funds its clinical operations and programs using HHS grant
16 funds, in particular through HRSA grants. For FY 2025, Multnomah County has approximately
17 \$13 million in active HRSA grants, the majority of which are dedicated to operating the
18 Community Health Centers that provide safety net medical services to vulnerable residents.

19 202. Multnomah County brings the action as to the unlawful HUD Grant Conditions, the
20 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

21 203. Plaintiff City of Oakland ("Oakland") is a charter city formed under the California
22 Constitution, with a population of approximately 440,000 people.

1 204. More than 5,000 residents of Oakland are homeless. Oakland relies, in part, on
2 federal funds, including CoC grants, to attempt to alleviate this problem. In 2025 and 2026,
3 Oakland has been awarded \$5.4 million in CoC grants for leasing shelter for homeless persons,
4 administering the HMIS, providing supportive services, and providing rental assistance, among
5 other services. Further, in fiscal year 2024–2025, Oakland departments received over \$14 million
6 in HUD formula grant awards, including CDBG, HOME, HOPWA, and ESG funds, to support
7 affordable housing homelessness response efforts and other community development activities. In
8 fiscal year 2025–2026, Oakland has been awarded over \$14 million from these same HUD formula
9 grants. Oakland also receives a \$7 million one-time award from the competitive PRO Housing
10 HUD grant program to support the development of affordable housing over multiple years.

11
12 205. Through the Oakland Department of Transportation (“OakDOT”), Oakland
13 envisions, plans, builds, operates, and maintains the city’s transportation system. To do so, it relies
14 in part on millions of dollars in federal funding from DOT OAs, such as the FHWA and FTA.
15 OakDOT was competitively awarded approximately \$13.8 million as part of DOT’s 2021 RAISE
16 Grant Program to make street improvements, and \$1 million from the DOT’s 2024 Safe Streets
17 and Roads for All program, and has applied for an additional \$5 million from the 2025 Safe Streets
18 and Roads for All program.

19
20 206. Oakland relies on millions of dollars per year from HHS, including through its
21 Human Services Department, which receives over \$13 million dollars per year in direct HHS funds
22 for HEAD Start. In addition, Oakland also currently receives \$1 million dollars per year for each
23 of the five fiscal years 2021–2026 in HHS funds (through SAMHSA) to fund the ReCAST Project,
24 which improves behavioral health outcomes and access to evidenced-based promising practices
25 for high risk youth and families most impacted by civil unrest and violence.

1 207. Oakland brings this action as to the unlawful HUD Grant Conditions, the unlawful
2 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 208. Plaintiff City of Pacifica (“Pacifica”) is a municipal corporation and general law
4 city organized and existing under and by virtue of the laws of the State of California.

5 209. Pacifica receives approximately \$110,000 in funds from DOT, passed through the
6 State of California Office of Traffic Safety and National Highway Traffic Safety Administration
7 (NHTSA), for traffic enforcement/safety support programs and services. Pacifica is also currently
8 applying for a \$3.5 million grant from DOT to support key planning and infrastructure to prevent
9 death and serious injury on roads and streets involving all roadway users, including pedestrians,
10 bicyclists, public transportation, personal conveyance, and micromobility users, motorists, and
11 commercial vehicle operators.

12 210. Additionally, Pacifica receives over \$500,000 from HHS for programs and services
13 that assist its low-income and marginalized communities, including senior transportation, meals
14 on wheels, and childcare support.

15 211. Pacifica brings this action as to the unlawful DOT Grant Conditions and the
16 unlawful HHS Grant Conditions.

17 212. Plaintiff the City of Petaluma (“Petaluma”) is a municipal corporation existing
18 under and by virtue of the constitution and laws of the State of California. Petaluma is a charter
19 city.

20 213. FTA currently has committed a total of \$10,002,326 for Petaluma programs,
21 including transit facility improvements, paratransit and fixed-route transit vehicles, and paratransit
22 operations. Petaluma also expects \$3,362,690 from FAA for Petaluma programs, including airport
23 taxiway, runway, and hangar ramp rehabilitation and other improvements.

1 214. Petaluma has current direct HUD awards equal to or exceeding \$2,335,254 for
2 resiliency center, back-up generator, sea level rise mapping, and building seismic retrofit disaster
3 mitigation projects. Petaluma also receives at least \$240,000 as a member of Sonoma County's
4 Continuum of Care. This funding supports mental health services for sheltered and unsheltered
5 persons, and street outreach programs for chronically unsheltered persons.
6

7 215. Petaluma brings this action as to the unlawful HUD Grant Conditions and the
8 unlawful DOT Grant Conditions.

9 216. Plaintiff Ramsey County is a political subdivision of the State of Minnesota, with
10 its county seat in Saint Paul.

11 217. Ramsey County receives over \$70 million annually from HHS in both direct and
12 pass-through awards to, among other programs, help families avoid involvement with the child
13 welfare system, serve justice-involved and unsheltered people with substance use disorder and
14 mental health conditions, and provide wrap-around sexual health services to low-income families.
15

16 218. Ramsey County also receives over \$2.5 million annually from HUD, both directly
17 and as a subrecipient, including for the CDBG, HOME, and PRO Housing programs, some of
18 which fund the rehabilitation of group homes for people with disabilities and other affordable
19 housing. Ramsey County is also a collaborative applicant and the lead agency for Heading Home
20 Ramsey, Ramsey County's Continuum of Care, which receives over \$8 million in HUD funding
21 per grant cycle to assist those at risk of or experiencing homelessness.
22

23 219. Finally, the federal DOT has awarded over \$40 million in funding to Ramsey
24 County as a subrecipient for current and upcoming projects, including Public Works bridge and
25 road improvements and multi-use trail development by Parks and Recreation.
26

1 220. Ramsey County brings the action as to the unlawful HUD Grant Conditions, the
2 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 221. Plaintiff the City of Rochester (“Rochester”) is a municipal entity organized and
4 existing under and by virtue of the laws of the State of New York.

5 222. A significant portion of Rochester’s budget is derived from federal funds. Those
6 federal dollars deliver critical resources to some of the most at-risk members of its community.
7 For example, in the calendar year 2024, Rochester received awards of \$12,388,321 in HUD funds.
8 That included a \$8,201,087 CDBG grant and \$1,132,150 in HOPWA funds. Those HOPWA funds
9 provided for subsidies and support services to 148 households that have at least one person living
10 with HIV/AIDS.

11 223. Rochester also received \$8,465,163 from DOT in the fiscal year ending June 30,
12 2024, which included \$52,828 in Pedestrian Safety Program funds.

13 224. In the 2023–2024 fiscal year, Rochester received \$596,896 in HHS funds which
14 covered pregnancy prevention grants and sexual risk avoidance grants.

15 225. Rochester brings the action as to the unlawful HUD Grant Conditions, the unlawful
16 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

17 226. Plaintiff City of Rohnert Park (“Rohnert Park”) is a municipal corporation, general
18 law city, organized and existing under and by virtue of the laws of the State of California.

19 227. Rohnert Park receives approximately \$3.4 million in DOT funds administered by
20 FHWA. Rohnert Park is currently applying for \$840,000 from DOT under the SS4A program for
21 roadway safety through the Sonoma County Transportation & Climate Authorities (“SCTCA”) to
22 support key planning and infrastructure. In addition to SS4A, in August 2025, Rohnert Park will
23 submit funding applications to SCTCA for \$21 million, funded in part by FHWA grants, for traffic
24
25
26
27

1 safety and infrastructure improvements.

2 228. Rohnert Park brings this action only as to the unlawful DOT Grant Conditions.

3 229. Plaintiff City of San Diego (“San Diego”) is a municipal corporation and charter
4 city organized and existing under and by virtue of the laws of the State of California.

5 230. San Diego is a direct recipient of approximately \$225 million in active HUD grant
6 funding to support a wide range of housing and community development initiatives. San Diego
7 anticipates receiving an additional \$25 million in HUD funding. By way of example, San Diego
8 uses HUD funding through the CDBG, HOME, and ESG programs to create affordable housing,
9 provide rental assistance, and address homelessness in the region. San Diego also depends on other
10 HUD grants to develop and improve libraries, community centers, and parks, subsidize childcare
11 costs, manage energy costs for residents, and support mobile solar panel electric vehicle charging
12 systems to increase its share of zero-emissions vehicles.
13

14 231. Additionally, San Diego relies on around \$137 million in awarded DOT grants
15 administered by FHWA as a direct recipient or subrecipient. San Diego anticipates receiving an
16 additional \$73 million in DOT funding. FHWA funds primarily support San Diego’s key capital
17 improvement projects, which involve substantial undertakings that often span several years to
18 improve critical infrastructure, such as bridge rehabilitation and street repairs.
19

20 232. San Diego brings the action as to the unlawful HUD Grant Conditions and the
21 unlawful DOT Grant Conditions.
22

23 233. Plaintiff County of San Mateo (“San Mateo County”) is a charter county and
24 political subdivision of the State of California.

25 234. San Mateo County administers millions of dollars each year in federal funding from
26 HUD, DOT, and HHS. With respect to HUD grant funds, San Mateo County Continuum of Care

1 was awarded approximately \$14 million in grant funding in HUD CoC funds to serve the region’s
2 approximately 1,800 homeless residents. Additionally, San Mateo County expects to receive
3 approximately \$3,774,761 million in HUD grant funding through the CDBG, HOME, and ESG
4 programs.

5
6 235. San Mateo County’s Department of Public Works (“DPW”) also relies heavily on
7 significant federal funding from FAA for projects like runway repair and airport upgrades/airfield
8 work. Without federal funding it would be difficult to maintain or improve local airports.
9 Moreover, DPW relies on FHWA and DOT funding for road repair and bridge projects among
10 other roadway infrastructure projects. DPW currently has approximately \$2.4 million in awarded
11 federal funds.

12
13 236. In addition to the HUD and DOT funding, San Mateo County annually receives
14 tens of millions of dollars from HHS for critical public services, including TANF, foster care
15 programming, and public health initiatives. These public health initiatives include disease control
16 and prevention, treatment of substance-use disorders, provision of services to persons with serious
17 mental illnesses, and programming that supports maternal and infant well-being. For example,
18 each year, San Mateo County receives approximately \$2.8 million from HRSA to provide medical,
19 dental, and behavioral health services to about 3,800 individuals experiencing homelessness and
20 1,000 farmworkers and their family members.

21
22 237. San Mateo County brings the action as to the unlawful HUD Grant Conditions, the
23 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

24
25 238. Plaintiff City of Santa Rosa (“Santa Rosa”) is a municipal corporation and charter
26 city organized and existing under and by virtue of the laws of the State of California.

1 239. Santa Rosa receives a total of more than \$24 million in federal funds from DOT
2 and approximately \$5.8 million in federal funds from HUD. These funds ensure ongoing
3 maintenance of Santa Rosa’s transit system, including maintenance of city streets, replacement of
4 its aging buses, funding of transit employee positions, and support to public safety and wildfire
5 prevention initiatives and important homelessness and housing insecurity programs.
6

7 240. Santa Rosa brings the action as to the unlawful HUD Grant Conditions and the
8 unlawful DOT Grant Conditions.

9 241. Plaintiff City of Watsonville (“Watsonville”) is a municipal corporation and
10 general law city organized and existing under and by virtue of the laws of the State of California.

11 242. Watsonville receives approximately \$1.1 million in DOT funds administered by
12 FAA, FHWA, and NHTSA. FHWA and NHTSA funds support public safety programs to reduce
13 the number of persons killed and injured in crashes involving alcohol and other primary crash
14 factors; efforts related to traffic enforcement and public awareness in areas with a high number of
15 bicycle and pedestrian crashes; and the Safe Routes to School initiatives and Safe System
16 Approach to prevent fatalities and injuries of vulnerable non-motorized road users. Additionally,
17 DOT FAA grants support the Watsonville Airport, and fund services related to public health
18 emergencies at the airport, including reimbursement of costs related to operations, personnel,
19 cleaning sanitation, and personal protective equipment for combating the spread of pathogens.
20 Further, FAA Zero Emissions Vehicle program grants fund the Watsonville Airport’s efforts to
21 improve airport air quality and facilitate the use of zero-emissions technologies.
22

23 243. Watsonville receives a Community Development Block (CDBG) Grant from HUD
24 totaling \$634,804 which funds services and program for youth center staffing, code enforcement,
25 small business assistance, Ramsay Park and housing program administration funds.
26

1 244. Watsonville brings this action only as to the unlawful HUD Grant Conditions and
2 DOT Grant Conditions.

3 245. Plaintiff Culver City Housing Authority (“CCHA”) is a public body corporate and
4 politic organized and existing under the California Health and Safety Code Sections 34200, *et seq.*

5 246. CCHA has been appropriated or awarded approximately \$1.3 million in Section 8
6 funds from HUD for FY 2025–26.

7 247. CCHA brings this action as to the unlawful HUD Grant Conditions.

8 248. Plaintiff Puget Sound Regional Council (“PSRC”) is a regional planning agency
9 formed under Washington’s Interlocal Cooperation Act, Revised Code of Washington chapter
10 39.34, and has been designated the metropolitan planning organization for King, Kitsap, Pierce,
11 and Snohomish counties pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.

12 249. PSRC members currently include the four counties, 77 cities and towns, four port
13 districts, the region’s transit agencies, WSDOT, the Washington Transportation Commission, the
14 Muckleshoot Indian Tribe, the Puyallup Tribe of Indians, the Suquamish Tribe, and the Tulalip
15 Tribes. PSRC develops long-range transportation plans and transportation improvement programs
16 for its planning area to guide the funding and development of future transportation projects. PSRC
17 relies on more than \$32 million in DOT grants, including more than \$9 million in FTA grants and
18 more than \$22 million in FHWA grants, some of which are passed through from WSDOT.

19 250. PSRC brings the action only as to the unlawful DOT Grant Conditions.

20 251. Plaintiff Sonoma County Transportation Authority (“SCTA”) was created by
21 County of Sonoma Board of Supervisors Resolution No. 90-1522 on August 7, 1990, pursuant to
22 California Public Utilities Code section 180000, otherwise known as the Local Transportation
23 Authority and Improvement Act, and acts as the countywide planning and fund programming

1 agency for transportation and performs a variety of important functions related to advocacy,
2 project management, planning, finance, grant administration and research.

3 252. SCTA receives federal transportation funding from DOT. Annually, SCTA is a
4 subrecipient of federal transportation planning funds administered through the CalTrans based on
5 CalTrans' delegated authority from the FHWA. SCTA, in partnership with the cities of Santa Rosa,
6 Petaluma, Rohnert Park, Cotati, and the Town of Windsor has been awarded \$4,580,000 in 2024
7 from FHWA's Safe Streets and Roads For All program. These funds will be used to deliver
8 demonstration activities and complete a supplemental planning project related to transportation
9 safety.
10

11 253. SCTA brings the action only as to the unlawful DOT Grant Conditions.

12 254. Sonoma County Community Development Commission ("SCCDC") is a public
13 entity, formed in 1984 pursuant to California Health and Safety Code section 34110, et seq.
14 SCCDC oversees affordable housing and community infrastructure projects and supports non-
15 profit organizations that serve low-income populations in Sonoma County. To date, SCCDC has
16 assisted in the development and preservation of 3,352 affordable housing units through local, state,
17 and federal grants.
18

19 255. Since its inception, SCCDC has had a long history of partnering with HUD,
20 leveraging federal grants to improve the lives of low-income households in Sonoma County
21 through the provision of funds to aid in development of affordable housing, funds for critical
22 community services, and rental assistance paid to private property owners on behalf of low-income
23 tenants. Additionally, federal grants assist in the improvement of public infrastructure systems and
24 support the local economies in Sonoma County by providing assistance to small business entities.
25

26 SCCDC receives and administers HUD funded programs, including four primary grant sources:

27 THIRD AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 49

1 CDBG, HOME, ESG, and the housing choice voucher program. For FY 2025–2026, these HUD
2 funds have been allocated to various eligible projects and activities, including affordable rental
3 housing projects, a micro-enterprise entity, a public water infrastructure project, and service
4 providers to support homeless populations, including households at-risk of becoming homeless.

5 256. SCCDC brings this brings the action only as to the unlawful HUD Grant
6 Conditions.

7 257. Plaintiff City of Albany (“Albany”) is a municipal corporation organized and
8 operating according to the laws of the State of New York.

9 258. Albany relies on roughly \$8 million annually in HUD grant funding to provide
10 housing access and improvements to city residents.

11 259. Albany also relies on nearly \$1 million in DOT funding, to finance pedestrian safety
12 measures and maintain important transportation corridors within city-limits.

13 260. Albany brings this action as to the unlawful HUD Grant Conditions and the
14 unlawful DOT Grant Conditions.

15 261. Plaintiff Allegheny County is a municipal subdivision organized under the laws of
16 the Commonwealth of Pennsylvania. With the City of Pittsburgh as its county seat, Allegheny
17 County is the second most populous county in the Commonwealth of Pennsylvania, with a
18 population over 1.24 million of which more than twenty percent are more than 65 years of age.

19 262. Allegheny County relies on approximately \$30 million dollars annually in HUD
20 CoC funding to address emergency housing resources for residents facing acute housing
21 displacement and to provide housing stabilization to residents transitioning from homelessness.
22 Allegheny County has also been awarded nearly \$17 million combined in HUD formula grants
23 through the CDBG program, the HOME program, and the ESG program.

1 263. Allegheny County also receives DOT funding as a subrecipient of the
2 Commonwealth of Pennsylvania’s Department of Transportation which it uses to address
3 infrastructure, including the roadways and many of the 518 bridges within the County.

4 264. Allegheny County receives millions of dollars of funding through HHS and its
5 subagencies, including CDC and SAMHSA, in program grants to provide a broad array of services,
6 including services for elder residents, substance abuse abatement programs, and services to
7 residents to mitigate an array of health and mental health challenges.

8 265. Allegheny County brings this action as to the unlawful HUD Grant Conditions, the
9 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

10 266. Plaintiff City of Berkeley (“Berkeley”) is a municipal corporation and charter city
11 organized and existing under the laws of the State of California.

12 267. Berkeley relies on millions of dollars in federal funding to deliver critical programs
13 and services to its residents. Currently, Berkeley receives approximately \$14 million in HUD grant
14 funds from the CoC, CDBG, CSBG, HOME, and ESG programs to provide affordable housing
15 and homelessness services.

16 268. Berkeley is seeking final reimbursements on a \$8 million multi-year grant funded
17 by DOT and has been recommended for approval of \$1.5 million more in DOT funds, for which
18 it is currently awaiting an award. These funds provide support for key infrastructure projects, such
19 as pedestrian and vehicle safety improvements.

20 269. Berkeley also relies on approximately \$3.5 million in non-formula funds from
21 HHS, including directly from CDC, and as a subrecipient of state and local agencies.

22 270. Berkeley brings the action as to the unlawful HUD Grant Conditions, the unlawful
23 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

1 271. Plaintiff City of Bothell (“Bothell”) is a municipal corporation organized under the
2 laws of the State of Washington.

3 272. Bothell routinely applies for and receives grants from DOT, and currently utilizes
4 and relies upon approximately \$48 million in DOT funds, including those administered by the
5 FHWA. These funds support investments in city streets and key infrastructure, such as bridges,
6 that serve to enhance public safety, mitigate infrastructure deterioration, and serve growth that
7 Bothell is required to accommodate pursuant to state laws.
8

9 273. Bothell brings the action as to the unlawful DOT Grant Conditions.

10 274. Plaintiff City of Cincinnati (“Cincinnati”) is a municipal corporation organized
11 under Ohio law. *See* Ohio Const. art. XVIII. It is the third largest city in Ohio with a population of
12 approximately 310,000 according to the 2020 census.
13

14 275. Cincinnati receives millions of dollars from HUD, including through the CDBG,
15 HOME, HOPWA, and ESG programs. Cincinnati additionally receives direct HUD funding for
16 lead safety and healthy homes. Cincinnati’s CoC designee, Strategies to End Homelessness,
17 directly receives HUD CoC grant funds and receives, approximately, an additional \$3 million
18 annually in HUD grant funds which are passed through Cincinnati in order to house and stabilize
19 residents dealing with homelessness.
20

21 276. Cincinnati has applied for and received multiple grants from DOT and relies on
22 over \$275 million in DOT funds administered under the FHWA, the FAA, and the FTA. These
23 funds include large mega-construction projects for highway infrastructure and essential bridges in
24 Cincinnati. The DOT funds provide support for key infrastructure projects, support for transit and
25 airport infrastructure, pedestrian and vehicle safety improvements, revitalization initiatives in
26 underserved areas, and important connectivity upgrades. These investments in city streets and
27

1 infrastructure serve as the foundation of Cincinnati's economy and of the ties among Cincinnati's
2 neighborhoods.

3 277. Cincinnati also receives millions of dollars through HHS and the CDC, both
4 directly and as a subrecipient.

5 278. Cincinnati brings the action as to the unlawful HUD Grant Conditions, the unlawful
6 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

7 279. Plaintiff Delaware County, Pennsylvania ("Delaware County") is a municipality
8 organized under the home rule charter of the Commonwealth of Pennsylvania. Delaware County
9 relies on approximately \$1 million in CoC federal funds to house and stabilize residents exiting
10 homelessness.

11 280. Delaware County also receives approximately \$4.9 million in HUD formula grants,
12 including through the CDBG program, the HOME program, and the ESG program.

13 281. Delaware County also has applied for and received grants from DOT and utilizes
14 and relies upon over \$3.6 million in DOT funds. These funds provide support for key infrastructure
15 projects such as bridge repairs, street safety planning, and pedestrian and vehicle safety
16 improvements.

17 282. Delaware County also receives approximately \$38.5 million through HHS, largely
18 as a subrecipient of funds passed through the Pennsylvania Department of Human Services, the
19 Pennsylvania Department of Health, the Pennsylvania Department of Aging, and the Pennsylvania
20 Department of Drug and Alcohol Programs. These funds support Delaware County's current
21 efforts to provide needed services for vulnerable residents, including but not limited to assistance
22 for seniors, abused/neglected youth, individuals with intellectual disabilities, and children
23 requiring early intervention programming.

1 283. Delaware County brings the action as to the unlawful HUD Grant Conditions, the
2 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

3 284. Plaintiff Los Angeles Homeless Services Authority (LAHSA) is a joint powers
4 authority of the City of Los Angeles and the County of Los Angeles, created to address the problem
5 of homelessness in the region.

6 285. LAHSA is the lead agency in the HUD-funded Los Angeles Continuum of Care
7 (LA CoC), and coordinates and manages federal, state, county, and city funds for programs
8 providing shelter, housing, and services to people experiencing homelessness. LAHSA has been
9 designated by the LA CoC as the Collaborative Applicant eligible to apply for more than \$200
10 million in federal HUD CoC Program funding on behalf of the LA CoC. LAHSA relies on nearly
11 \$89 million annually in HUD CoC grant funds to house and stabilize residents exiting
12 homelessness. LAHSA also receives approximately \$8 million in HUD formula grants through the
13 ESG program.

14 286. LAHSA brings the action as to the unlawful HUD Grant Conditions.

15 287. Plaintiff City of New Haven (“New Haven”) is a municipal corporation organized
16 under the laws of the State of Connecticut. New Haven relies on nearly \$126 million annually in
17 federal grants, including but not limited to approximately \$43.4 million in federal funds from
18 HUD, more than \$13.4 million in federal funds from DOT and/or its operating administrations,
19 and more than \$5.3 million in federal funds from HHS.

20 288. New Haven’s HUD funding includes formula grants under the CDBG program, the
21 HOME program, and the Housing Opportunities for Persons with AIDS (HOPWA) program. This
22 funding covers costs including the salaries for employees in positions which are vital to City
23 programs aimed at improving rental housing conditions for New Haven residents.

1 289. New Haven’s DOT funds provide support for key infrastructure projects, pedestrian
2 and vehicle safety improvements, and important connectivity upgrades.

3 290. New Haven’s HHS dollars fund a program for services to residents suffering from
4 AIDS.

5 291. New Haven brings the action as to the unlawful HUD Grant Conditions, the
6 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

7 292. Plaintiff City of Olympia (“Olympia”) is a municipal corporation organized under
8 the laws of the State of Washington.

9 293. Olympia relies on approximately \$350,000 annually from HUD in CDBG funding
10 to provide essential housing rehabilitation services, services for residents experiencing
11 homelessness, microenterprise assistance for low- and moderate- income businessowners, and
12 services for seniors and people with disabilities.

13 294. Olympia brings the action as to the unlawful HUD Grant Conditions.

14 295. Plaintiff City of Palo Alto (“Palo Alto”) is a chartered municipal corporation
15 organized and existing under the laws of the State of California.

16 296. Palo Alto receives tens of millions of dollars annually in federal grants from HUD
17 and DOT on which it relies to provide essential housing, infrastructure, and safety services.

18 297. In Fiscal Year 2025, Palo Alto received about \$1.3 million through HUD including
19 CDBG funding to support housing and community development initiatives benefiting low- and
20 moderate-income residents.

21 298. Palo Alto receives approximately \$60 million in federal grants administered by
22 DOT, including from FAA and FHWA, to fund airport infrastructure upgrades, bridge
23 replacement, rail safety enhancements, and pipeline and hazardous material infrastructure safety

1 and modernization.

2 299. Palo Alto brings the action as to the unlawful HUD Grant Conditions and the
3 unlawful DOT Grant Conditions.

4 300. Plaintiff City of Port Angeles, Washington (“Port Angeles”) is a municipal
5 corporation organized under the laws of the State of Washington.

6 301. Port Angeles has relied on grants through HUD’s CDBG program. Port Angeles
7 anticipates applying for HUD grants in the future.

8 302. Port Angeles also receives approximately \$12.597 million in federal funds from
9 DOT and its operating administrations. These funds provide support for transportation and traffic-
10 related improvements. DOT funds constitute approximately 7.6% of Port Angeles’s operating
11 budget.
12

13 303. Port Angeles brings the action as to the unlawful HUD Grant Conditions and the
14 unlawful DOT Grant Conditions.

15 304. Plaintiff City of Santa Fe, New Mexico (“Santa Fe”) is a home-rule municipal
16 corporation organized under the laws of the State of New Mexico.

17 305. Santa Fe’s FY26 budget contains approximately \$4,312,383 in federal funds,
18 including approximately \$746,750 in HUD formula grants through the CDBG program.
19

20 306. Santa Fe also has applied for and received numerous grants from DOT over the past
21 several years, and utilizes and relies upon over \$7,845,167 in federal funds from DOT and/or its
22 operating administrations. These funds provide support for key infrastructure projects, pedestrian
23 and vehicle safety improvements, and important connectivity upgrades. These investments in city
24 streets, airport, and infrastructure serve as the foundation of Santa Fe’s economy and of the ties
25 among Santa Fe’s neighborhoods.
26

1 307. Santa Fe also receives approximately \$427,868 from HHS for its senior programs.

2 308. Santa Fe brings the action as to the unlawful HUD Grant Conditions, the unlawful
3 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

4 309. Plaintiff City of Spokane (“Spokane”) is a municipal corporation organized under
5 the laws of the State of Washington.

6 310. Spokane relies on nearly \$6.5 million annually in HUD CoC grant funds to house
7 and stabilize residents exiting homelessness.

8 311. Spokane also receives approximately \$4.4 million in HUD formula grants,
9 including through the CDBG program, the HOME program, and the ESG program. These funds
10 provide support for emergency shelters, community centers, childcare centers, affordable housing
11 development, parks improvements in income eligible neighborhoods, and services for survivors of
12 domestic violence.

13 312. Spokane brings the action as to the unlawful HUD Grant Conditions.

14 313. Plaintiff City of Tacoma (“Tacoma”) is a municipal corporation organized under
15 the laws of the State of Washington.

16 314. Tacoma receives approximately \$4 million in HUD formula grants, including
17 through the CDBG program and the HOME program to develop new affordable housing units,
18 keep people in their homes by ensuring the home is safe and in good repair, bolster small business
19 growth across the City of Tacoma, and provide services that increase housing stability for low
20 income households.

21 315. Tacoma also has applied for, received, and utilizes and relies upon over \$16 million
22 in DOT funds administered by the FRA and FHWA. These funds provide support for key rail
23 infrastructure and safety projects. The investments in infrastructure serve as a foundation of

1 Tacoma's economy.

2 316. Tacoma brings the action as to the unlawful HUD Grant Conditions and the
3 unlawful DOT Grant Conditions.

4 317. Plaintiff County of Thurston ("Thurston County") is a municipal corporation
5 organized under the laws of the State of Washington.

6 318. Thurston County relies on approximately \$1.68 million in HUD formula grants,
7 including through the CDBG program and the HOME program, to support affordable housing
8 projects, public infrastructure and facilities, and other public services which support low- to
9 moderate- income populations.

10 319. Thurston County also has applied for and received grants from DOT over the years,
11 and utilizes and relies upon over \$18 million in DOT funds administered by the FHWA. These
12 funds provide support for key infrastructure projects, pedestrian and vehicle safety improvements,
13 revitalization initiatives in underserved areas, and important connectivity upgrades. These
14 investments in county streets and infrastructure serve as the foundation of Thurston County's
15 economy and of the ties among Thurston County's neighborhoods.

16 320. Thurston County also receives tens of thousands of dollars through HHS to support
17 programs that change child welfare practices and improve the early development health and
18 wellbeing of infants, toddlers, and their families.

19 321. Thurston County brings the action as to the unlawful HUD Grant Conditions, the
20 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

21 322. Defendant Scott Turner is the Secretary of HUD, the highest ranking official in
22 HUD, and responsible for the decisions of HUD. He is sued in his official capacity.
23
24
25
26

1 323. Defendant HUD is an executive department of the United States federal
2 government. 42 U.S.C. § 3532(a). HUD is an “agency” within the meaning of the APA. 5 U.S.C.
3 § 551(1).

4 324. Defendant Sean Duffy is the Secretary of DOT, the highest ranking official in DOT,
5 and responsible for the decisions of DOT. He is sued in his official capacity.
6

7 325. Defendant DOT is an executive department of the United States federal
8 government. 49 U.S.C. § 102(a). It houses a number of operating administrations, including the
9 FTA, FHWA, FAA, and FRA. DOT is an “agency” within the meaning of the APA. 5 U.S.C.
10 § 551(1).

11 326. Defendant Tariq Bokhari is the acting Administrator of the FTA, the highest
12 ranking official in the FTA, and responsible for the decisions of the FTA. He is sued in his official
13 capacity.
14

15 327. Defendant FTA is an operating administration within DOT. 49 U.S.C. § 107(a).
16 FTA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

17 328. Defendant Gloria M. Shepherd is the acting Director of the FHWA, the highest
18 ranking official in the FHWA, and responsible for the decisions of the FHWA. She is sued in her
19 official capacity.
20

21 329. Defendant FHWA is an operating administration within DOT. 49 U.S.C. § 104(a).
22 FHWA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

23 330. Defendant Chris Rocheleau is the acting Administrator of the FAA, the highest
24 ranking official in the FAA, and responsible for the decisions of the FAA. He is sued in his official
25 capacity.
26

1 331. Defendant FAA is an operating administration within DOT. 49 U.S.C. § 106(a).
2 FAA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

3 332. Defendant Drew Feeley is the acting Administrator of the FRA, the highest ranking
4 official in the FRA, and responsible for the decisions of the FRA. He is sued in his official capacity.

5 333. Defendant FRA is an operating administration within DOT. 49 U.S.C. § 103(a).
6 FRA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

7 334. Defendant Robert F. Kennedy, Jr. is the Secretary of HHS, the highest ranking
8 official in HHS, and responsible for the decisions of HHS. He is sued in his official capacity.

9 335. Defendant HHS is an executive department of the United States federal
10 government. 42 U.S.C. § 3501. HHS is an “agency” within the meaning of the APA. 5 U.S.C.
11 § 551(1).
12

13 IV. FACTUAL ALLEGATIONS

14 A. HUD Grant Programs

15 336. Congress established HUD in 1965 to promote the “sound development of the
16 Nation’s communities and metropolitan areas” by, among other things, administering programs
17 that “provide assistance for housing” and “development.” Department of Housing and Urban
18 Development Act, 1965 § 2, Pub. L. 89-175, 79 Stat. 667. HUD administers both competitive and
19 formula grant programs. Competitive grant programs “allocate[] a limited pool of funds to state
20 and local applicants whose applications are approved by” a federal agency. *City of Los Angeles v.*
21 *Barr*, 929 F.3d 1163, 1169 (9th Cir. 2019). Entitlement grant programs (sometimes referred to as
22 formula grant programs) “are awarded pursuant to a statutory formula” wherein “Congress
23 determines who the recipients are and how much money each shall receive.” *City of Los Angeles*
24 *v. McLaughlin*, 865 F.2d 1084, 1088 (9th Cir. 1989) (cleaned up). HUD administers grants directly
25
26

1 and through its program offices, including the Office of Community Planning & Development
2 (CPD), and regional field offices. *See* 24 C.F.R. subchapter C (CPD-administered programs); *id.*
3 § 982.101 (allocating budget authority for Section 8 Housing Choice Voucher program to field
4 offices).

5
6 **1. Continuum of Care Grant Program**

7 ***a.) Congress Authorizes the Establishment of the Continuum of Care***
8 ***Program through the McKinney-Vento Homeless Assistance Act***

9 337. Congress enacted the McKinney-Vento Homeless Assistance Act (the “Homeless
10 Assistance Act”) “to meet the critically urgent needs of the homeless of the Nation” and “to assist
11 the homeless, with special emphasis on elderly persons, handicapped persons, families with
12 children, Native Americans, and veterans.” 42 U.S.C. § 11301(b).

13 338. Among the programs Congress established through subsequent amendments to the
14 Homeless Assistance Act is the Continuum of Care (CoC) program. *Id.* §§ 11381–89. The CoC
15 program is designed to promote a community-wide commitment to the goal of ending
16 homelessness; to provide funding for efforts by nonprofit providers and state and local
17 governments to quickly rehouse homeless individuals and families; to promote access to, and
18 effective utilization of, mainstream programs by homeless individuals and families; and to
19 optimize self-sufficiency among those experiencing homelessness. *Id.* § 11381.

20 339. The Homeless Assistance Act directs the Secretary of HUD (the “HUD Secretary”)
21 to award CoC grants on a competitive basis using statutorily prescribed selection criteria. *Id.*
22 § 11382(a). These grants fund critical homelessness services administered by grant recipients
23 either directly or through service providers contracted by the grant recipient. The CoC program
24 funds a variety of programs that support homeless individuals and families, including through the
25
26

1 construction of supportive housing, rehousing support, rental assistance, and supportive services,
2 including child care, job training, healthcare, mental health services, trauma counseling, and life
3 skills training. *Id.* §§ 11360(29), 11383.

4 340. Grants are awarded to local coalitions, or “Continuums,” that may include
5 representatives from local governments, nonprofits, faith-based organizations, advocacy groups,
6 public housing agencies, universities, and other stakeholders. 24 C.F.R. § 578.3. Each Continuum
7 designates an applicant to apply for CoC funding on behalf of the Continuum. *Id.*

8
9 ***b.) Congress Imposes Legislative Directives, and HUD Promulgates
10 Rules, Regarding CoC Grant Conditions***

11 341. HUD’s administration of the CoC program, including the award of CoC grants, is
12 authorized and governed by statutory directives. Congress has specified what activities are eligible
13 for funding under the CoC program, the selection criteria HUD must apply in awarding CoC
14 grants, and program requirements HUD can require recipients agree to as conditions for receiving
15 funds. *See* 42 U.S.C. §§ 11383, 11386, 11386a.

16 342. Section 422 of the Homeless Assistance Act, 42 U.S.C. § 11382, contains
17 Congress’s overarching authorization for HUD to award CoC grants. Subsection (A) of that section
18 states:
19

20 The Secretary shall award grants, on a competitive basis, and using
21 the selection criteria described in section 11386a of this title, to carry
22 out eligible activities under this part for projects that meet the
23 program requirements under section 11386 of this title, either by
24 directly awarding funds to project sponsors or by awarding funds to
25 unified funding agencies.

26 343. Section 427 of the Homeless Assistance Act, 42 U.S.C. § 11386a, provides for the
27 HUD Secretary to establish selection criteria to evaluate grant applications and sets forth specific
28 criteria the HUD Secretary must use. These required criteria include things like the recipient’s

1 previous performance in addressing homelessness, whether the recipient has demonstrated
2 coordination with other public and private entities serving homeless individuals, and the need
3 within the geographic area for homeless services. *Id.* (b)(1)–(2).

4 344. Section 426 of the Homeless Assistance Act, 42 U.S.C. § 11386, sets forth
5 “[r]equired agreements” to which grant recipients must adhere. Recipients must agree to, among
6 other things, “monitor and report to the [HUD] Secretary the progress of the project,” “take the
7 educational needs of children into account when families are placed in emergency or transitional
8 shelter,” “place families with children as close as possible to their school of origin,” and obtain
9 various certifications from direct service providers. 42 U.S.C. § 11386(b).

10 345. The Homeless Assistance Act does not authorize HUD to condition CoC funding
11 on opposition to all forms of Diversity, Equity, and Inclusion (DEI) policies and initiatives through
12 the guise of federal nondiscrimination law, nor on participating in aggressive and lawless
13 immigration enforcement, exclusion of transgender people, or cutting off access to information
14 about lawful abortions.

15 346. Congress has authorized the Secretary to promulgate regulations establishing, *inter*
16 *alia*, other selection criteria and “other terms and conditions” on grant funding “to carry out [the
17 CoC program] in an effective and efficient manner.” *Id.* §§ 11386(b)(8), 11386a(b)(1)(G), 11387.

18 347. Pursuant to this authority, HUD has promulgated the Continuum of Care Program
19 rule at 24 C.F.R. part 578 (the “CoC Rule”), which, among other things, sets forth additional
20 conditions to which grant recipients must agree in the CoC grant agreements they execute with
21 HUD. *Id.* § 578.23(c). While the CoC Rule permits HUD to require CoC recipients to comply with
22 additional “terms and conditions,” such terms and conditions must be “establish[ed] by” a Notice
23
24
25
26

1 of Funding Opportunity (NOFO).² *Id.* § 578.23(c)(12).

2 348. The CoC Rule does not impose any conditions on CoC funding related to
3 prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verification of
4 immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”
5 Congress has not delegated authority that would permit an agency to adopt such conditions.
6

7 ***c.) Congress Appropriates CoC Grant Funding and Authorizes
8 HUD to Issue a NOFO for Fiscal Years 2024 and 2025***

9 349. Funding for CoC grants comes from congressional discretionary appropriations.

10 350. Most recently, Congress appropriated funds for the CoC program in the
11 Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 25 (the “2024 Appropriations
12 Act”).

13 351. The 2024 Appropriations Act contains additional directives to HUD regarding CoC
14 funding. For instance, it requires the Secretary to “prioritize funding . . . to continuums of care that
15 have demonstrated a capacity to reallocate funding from lower performing projects to higher
16 performing projects,” and requires the Secretary to “provide incentives to create projects that
17 coordinate with housing providers and healthcare organizations to provide permanent supportive
18 housing and rapid re-housing services.” *Id.*, 138 Stat. 362–363.
19

20 352. The 2024 Appropriations Act also authorized HUD to issue a two-year NOFO for
21 Fiscal Years 2024 and 2025 program funding. *Id.*, 138 Stat. 386.
22
23
24

25 ² The terms NOFO, “Notice of Funding Availability,” and “Funding Opportunity
26 Announcement” refer to a formal announcement of the availability of federal funding. As part of
27 an effort to standardize terminology, most federal agencies now use the term NOFO. For clarity,
this Complaint uses the term NOFO.

1 353. By statute, the HUD Secretary must announce recipients within five months after
2 the submission of applications for funding in response to the NOFO. 42 U.S.C. § 11382(c)(2).

3 354. The HUD Secretary’s announcement is a “conditional award,” in that the recipient
4 must meet “all requirements for the obligation of those funds, including site control, matching
5 funds, and environmental review requirements.” *Id.* § 11382(d)(1)(A).

6 355. Once the recipient meets those requirements, HUD must obligate the funds within
7 45 days. *Id.* § 11382(d)(2) (providing that “the Secretary shall obligate the funds”).

8 356. None of the 2024 Appropriations Act’s directives to HUD or any other legislation
9 authorize HUD to impose CoC grant fund conditions related to prohibiting all kinds of DEI,
10 facilitating enforcement of federal immigration laws, verification of immigration status, or
11 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”
12

13 ***d.) HUD Conditionally Awards CoC Grants to CoC Plaintiffs***

14 357. In July 2024, HUD posted a biennial NOFO announcing a competition for CoC
15 funding for Fiscal Years 2024 and 2025 (the “FYs 2024 & 2025 NOFO”). *See* U.S. Dep’t of
16 Housing & Urban Dev., Notice of Funding Opportunity for FY 2024 and FY 2025 Continuum of
17 Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program (Jul.
18 24, 2024), https://www.hud.gov/sites/dfiles/CPD/documents/FY2024_FY2025_CoC_and_YHDP_NOFO_FR-6800-N-25.pdf.
19
20

21 358. The FYs 2024 & 2025 NOFO directed Continuums to consider policy priorities in
22 their applications, including “Racial Equity” and “Improving Assistance to LGBTQ+ Individuals.”
23 *Id.* at 9. The FYs 2024 & 2025 NOFO specified that “HUD is emphasizing system and program
24 changes to address racial equity within CoCs and projects. Responses to preventing and ending
25 homelessness should address racial inequities” *Id.* The FYs 2024 & 2025 NOFO further
26

1 specified that “CoC should address the needs of LGBTQ+, transgender, gender non-conforming,
2 and non-binary individuals and families in their planning processes. Additionally, when
3 considering which projects to select in their local competition to be included in their application
4 to HUD, CoCs should ensure that all projects provide privacy, respect, safety, and access
5 regardless of gender identity or sexual orientation.” *Id.*

6
7 359. The NOFO did not include any grant conditions related to prohibiting all kinds of
8 DEI, facilitating enforcement of federal immigration laws, verifying immigration status, or
9 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

10 360. Existing plaintiffs King County, Pierce County, Snohomish County, San Francisco,
11 Santa Clara, Boston, Columbus, NYC, Nashville, Pima County, Cambridge, Pasadena, San José,
12 Tucson, King County RHA, Santa Monica HA, Alameda County, Albuquerque, Baltimore, Dane
13 County, Hennepin County, Milwaukee, Multnomah County, Oakland, Petaluma, Ramsey County,
14 San Mateo County, and Sonoma County as well as plaintiffs Allegheny County, Berkeley,
15 Cincinnati, Delaware County, LAHSA, and Spokane (collectively, the “CoC Plaintiffs”), in
16 coordination with or as part of their respective Continuums, developed their applications in
17 compliance with the FYs 2024 & 2025 NOFO’s stated policy priorities. Each CoC Plaintiff
18 Continuum timely submitted its application in response to the FYs 2024 & 2025 NOFO.
19

20
21 361. On January 17, 2025, HUD announced the conditional award list for FY 2024,
22 which included each of the CoC Plaintiffs.

23 ***e.) CoC Plaintiffs Rely on CoC Grants to Serve their Homeless
24 Residents***

25 362. Tens of thousands of individuals and families experiencing homelessness live
26 within CoC Plaintiffs’ geographical limits. Many of these individuals rely on services provided by

1 CoC Plaintiffs with funding from the CoC program to access rapid rehousing (which provides
2 short-term rental assistance), permanent and transitional housing services, and case management
3 that supports linkages to healthcare, job training, and other resources that facilitate their ability to
4 obtain and keep their housing.

5
6 363. CoC Plaintiffs historically have applied annually for CoC funds on behalf of
7 Continuums that include representatives from local governments, nonprofits, faith-based
8 organizations, advocacy groups, public housing agencies, universities, and/or other stakeholders.
9 Grant awards are currently distributed to scores of programs serving homeless individuals and
10 families in each of CoC Plaintiffs' jurisdictions.

11
12 364. CoC grants support permanent supportive housing programs, which provide long-
13 term, affordable housing combined with supportive services for individuals and families
14 experiencing, or at risk of, homelessness. These programs allow participating individuals and
15 families to live independently and stably in their communities.

16
17 365. CoC grants also support rapid rehousing programs, which help individuals and
18 families exit homelessness and return quickly to permanent housing. Rapid rehousing is a key
19 component of CoC Plaintiffs' response to homelessness because it connects people to housing as
20 quickly as possible by providing temporary financial assistance and other supportive services like
21 housing search and stability case management.

22
23 366. Other programs funded by CoC grants include transitional housing programs that
24 provide temporary, short-term housing for homeless individuals and families who require a bridge
25 to permanent housing; supportive services, which include things like conducting outreach to
26 homeless individuals and families and providing referrals to housing or other needed resources;
27 and operation of systems for collecting and managing data on the provision of housing and services

1 to program participants.

2 367. Thousands of CoC Plaintiffs’ residents experiencing, or at risk of, homelessness
3 rely on these programs and others funded by the CoC program. The loss of CoC funding threatens
4 the ability of CoC Plaintiffs to provide critical programs and would result in program participants
5 losing their housing and being unable to access services they have relied on to achieve and maintain
6 stability and independence.
7

8 368. For FY 2024, HUD conditionally awarded CoC Plaintiffs hundreds of millions of
9 dollars in CoC grants to continue homelessness assistance programs, ensuring CoC Plaintiffs’
10 ability to serve their residents so they would not experience a sudden drop off in the availability
11 of housing services, permanent and transitional housing, and other assistance.
12

13 369. In reliance on these awards, many CoC Plaintiffs have already notified service
14 providers of forthcoming funding and/or contracted with service providers for homelessness
15 assistance services.

16 **2. Community Development Block Grant Program**

17 370. Congress established the Community Development Block Grant (CDBG) program
18 through Title I of the Housing and Community Development Act of 1974 (the “HCD Act”), Pub.
19 L. 93-383, 88 Stat. 633, and subsequent amendments. The program’s stated “primary objective”
20 is to promote “development of viable urban communities” through “decent housing,” a “suitable
21 living environment,” and “expan[sion of] economic opportunities, principally for persons of low
22 and moderate income.” 42 U.S.C. § 5301(c). Specific objectives include “conserv[ing] and
23 expan[ding] the Nation’s housing stock” especially for low- and moderate-income households,
24 promoting mixed-income communities, and enhancing the “diversity and vitality of
25 neighborhoods” by eliminating slums or blight and revitalizing “deteriorating or deteriorated
26

1 neighborhoods,” among other goals. *Id.* § 5301(c)(1), (c)(3), (c)(6).

2 371. The CDBG program is codified at title 42, chapter 69 of the U.S. Code. The
3 program provides flexible funding through annual block grants awarded on a formula basis to state
4 and local governments for purposes related to economic and community development. In enacting
5 the program, Congress consolidated “a number of complex and overlapping” grant programs such
6 that funding would be provided “on an annual basis, with maximum certainty and minimum
7 delay,” and communities could “rely [on funding] in their planning.” *Id.* § 5301(d). The HCD Act
8 permits communities to tailor program activities to meet local needs so long as they advance
9 national objectives identified by Congress, including benefiting low- and moderate-income
10 persons, preventing or eliminating slums or blight, or, in certain cases, responding to serious and
11 immediate threats to community health or welfare where other funds are unavailable. *Id.*
12 §§ 5301(c), 5304(b)(4).

13 14 372. The HCD Act authorizes the HUD Secretary to award CDBG funds using
15 statutorily prescribed selection criteria. 42 U.S.C. §§ 5303–04. The HUD Secretary must distribute
16 funds annually using a formula that considers population and measures of distress including
17 poverty, age of housing, housing overcrowding, and growth lag. *Id.* §§ 5303–04, 5306. These
18 grants fund vital urban community development projects and public services administered by grant
19 recipients either directly or through service providers contracted by the grant recipient. *See id.*
20 § 5305 (listing activities eligible for assistance).

21 22 **a.) Congress Imposes Legislative Directives, and HUD Promulgates
23 Rules, Regarding CDBG Grant Conditions**

24 373. HUD’s administration of the CDBG program, including the award of block grants,
25 is authorized and governed by statutory directives. Congress has specified what activities are
26

1 eligible for funding under the CDBG program, the selection criteria HUD must apply in awarding
2 CDBG grants, and program requirements HUD can require recipients agree to as conditions for
3 receiving funds. *See* 42 U.S.C. §§ 5301, 5304–05.

4 374. Section 103 of the HCD Act, *id.* § 5303, contains Congress’s overarching
5 authorization to award CDBG funding. That provision states in relevant part: “The Secretary is
6 authorized to make grants to States, units of general local government, and Indian tribes to carry
7 out activities in accordance with the provisions of this chapter.”

8
9 375. In addition to the statutory objectives and allocation formula discussed above,
10 Congress has imposed other requirements on CDBG funds. For instance, 42 U.S.C. § 5305 limits
11 the use of CDBG funds to enumerated eligible activities. The HCD Act also mandates that
12 recipients use at least 70% of CDBG funds on activities that principally benefit low- and moderate-
13 income persons, *id.* § 5301(c), and prescribes eligibility criteria for such activities, *id.* § 5305(c).
14 Grant recipients must also submit annual plans to the HUD Secretary describing their priority
15 nonhousing community development needs eligible for CDBG funding pursuant to procedures set
16 out in the HCD Act. *Id.* § 5304(m). Finally, Congress has enumerated various certifications that
17 CDBG recipients must make as a condition of receiving funds, including that the recipient will
18 develop and follow a citizen participation plan, comply with statutory transparency requirements,
19 ensure funds are consistent with the HCD Act’s objectives, and administer programs in conformity
20 with nondiscrimination laws. *Id.* § 5304(a)(3), (b).

21
22 376. The HCD Act does not authorize HUD to condition CDBG funding on opposition
23 to all forms of DEI policies and initiatives through the guise of federal nondiscrimination law, nor
24 on participating in aggressive and lawless immigration enforcement, verification of immigration
25 status, exclusion of transgender people, or cutting off access to information about lawful abortions.

1 377. The HCD Act indicates congressional intent to benefit historically disadvantaged
2 groups. For example, the Act *requires* the Secretary to set aside some of the funds appropriated
3 for the CDBG program for “special purpose grants,” which may include, among other things,
4 grants to “historically Black colleges.” 42 U.S.C. § 5307(b)(2). The Act further provides that, of
5 the amount set aside for special purpose grants, the Secretary “shall” make grants to institutions
6 of higher education “for the purpose of providing assistance to economically disadvantaged and
7 minority students who participate in community development work study programs and are
8 enrolled in” qualifying degree programs. *Id.* § 5307(c). The Act also authorizes urban development
9 action grants to cities and urban counties experiencing severe economic distress, but only if the
10 HUD Secretary determines the city or county has “demonstrated results in,” among other things,
11 “providing equal opportunity in housing and employment for low- and moderate-income persons
12 and members of minority groups.” *Id.* § 5318(a)–(b).

13
14
15 378. Congress has authorized the HUD Secretary to promulgate “rules and regulations”
16 necessary to carrying out the Secretary’s “functions, powers, and duties.” 42 U.S.C. § 3535(d).

17 379. Pursuant to this authority, HUD has promulgated the CDBG program rule at 24
18 C.F.R. part 570 (the “CDBG Rule”), which, among other things, imposes additional restrictions
19 on the use of CDBG funds. *See* 24 C.F.R. § 570.207. The CDBG Rule also obligates grant
20 recipients to submit annual consolidated plans in accordance with 24 C.F.R. part 91. 24 C.F.R.
21 § 570.302. These annual consolidated plans must include additional certifications enumerated in
22 HUD regulations, including that the recipient complies with lead-based paint procedures and has
23 policies barring the use of excessive force against non-violent civil rights demonstrators. 24 C.F.R.
24 § 91.225.
25
26
27

1 380. The CDBG Rule does not impose any conditions on CDBG funding related to
2 prohibiting all forms of DEI policies and initiatives through the guise of federal nondiscrimination
3 law, participating in aggressive and lawless immigration enforcement, verification of immigration
4 status, opposing transgender acceptance, or cutting off access to information about lawful
5 abortions.

6
7 ***b.) Congress Appropriates CDBG Grant Funding***

8 381. Funding for CDBG grants comes from congressional discretionary appropriations.

9 382. Most recently, Congress appropriated funds for the CDBG program in the 2024
10 Appropriations Act. The 2024 Appropriations Act contains additional directives to HUD regarding
11 CDBG funding. For instance, it requires that no more than 20% of any grant under the CDBG
12 program may be expended for certain planning and administrative purposes and imposes
13 limitations on funds provided to for-profit entities. 138 Stat. 358–59.

14
15 383. None of the 2024 Appropriations Act’s directives to HUD or any other legislation
16 authorize HUD to impose CDBG grant conditions related to prohibiting all kinds of DEI,
17 facilitating enforcement of federal immigration laws, verification of immigration status, or
18 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

19 **3. Emergency Solutions Grant Program**

20 ***a.) Congress Authorizes the Establishment of the Emergency***
21 ***Solutions Grant Program Through the HEARTH Act***

22 384. In 2009, Congress established the Emergency Solutions Grant (ESG) program
23 through the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act,
24 Pub. L. 111-22, 123 Stat. 1663. *See* 42 U.S.C. §§ 11371–11378. In enacting the HEARTH Act,
25 Congress sought to remedy the “lack of affordable housing and limited scale of housing assistance
26

1 programs” that it found to be “the primary causes of homelessness” and “establish a Federal goal
2 of ensuring that individuals and families who become homeless return to permanent housing within
3 30 days.” HEARTH Act, § 1002, 123 Stat. 1664.

4 385. The HEARTH Act amended the Homeless Assistance Act to expand what had been
5 known as the Emergency Shelter Grant program, which provided formula funding to state and
6 local governments for the short-term needs of homeless individuals. Reflecting a broadened focus
7 on factors that lead to homelessness, the HEARTH Act expanded the activities eligible for funding
8 under the new ESG program to include short- or medium-term rental assistance and housing
9 relocation and stabilization services, in addition to emergency shelters, homelessness prevention,
10 and supportive services, which had been covered under the original program. *See* 42 U.S.C. §
11 11374(a).
12

13 386. The Homeless Assistance Act, as amended by the HEARTH Act, directs the
14 Secretary of HUD to award ESG grants to cities, urban counties, and states on a non-competitive
15 basis using HUD’s formula for allocating CDBG funds, discussed above. *Id.* §§ 11372, 11373(a).
16 These grants fund programs that address the most critical and immediate needs of those
17 experiencing or at risk of homelessness, including programs for preventing homelessness,
18 immediately rehousing individuals who become homeless, and providing emergency shelter to
19 those experiencing homelessness. *Id.* § 11374(a).
20

21
22 ***b.) Congress Imposes Legislative Directives, and HUD Promulgates
Rules, Regarding ESG Grant Conditions***

23 387. HUD’s administration of the ESG program, including the award of ESG funds, is
24 authorized and governed by statutory directives. Congress has specified what activities are eligible
25 for funding under the ESG program, the responsibilities of ESG recipients, and specific
26

1 certifications ESG recipients must agree to as a condition of receiving funds. *Id.* §§ 11374(a),
2 11375.

3 388. Congress's overarching direction to HUD to award ESG grants is codified at 42
4 U.S.C. § 11372, which provides:

5
6 The Secretary shall make grants to States and local governments
7 (and to private nonprofit organizations providing assistance to
8 persons experiencing homelessness or at risk of homelessness, in the
9 case of grants made with reallocated amounts) for the purpose of
10 carrying out activities described in section 11374 of this title.

11 389. Section 11374 of Title 42 limits the activities for which ESG funds may be used to
12 specific services: maintaining, operating, or renovating emergency shelters; providing supportive
13 services related to emergency shelter or street outreach; paying short- or medium-term rental
14 assistance; and providing housing relocation or stabilization services for homeless or at-risk
15 individuals and families.

16 390. Section 11375 of Title 42 sets forth certifications that recipients must make to the
17 Secretary of HUD regarding their use of ESG funds. Recipients must certify that, among other
18 things, they will operate facilities that receive funding as homeless shelters for a specified number
19 of years, any ESG-funded renovation will be sufficient to ensure the shelter is safe and sanitary,
20 they will assist homeless individuals in obtaining permanent housing and services such as medical
21 and mental health treatment and counseling, and they will involve homeless individuals and
22 families through employment, volunteer services, or otherwise, in constructing and operating
23 shelters to the maximum extent practicable. 42 U.S.C. § 11375(c).

24 391. The HEARTH Act does not authorize HUD to condition ESG funding on
25 opposition to all forms of DEI policies and initiatives through the guise of federal
26 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,

1 verification of immigration status, exclusion of transgender people, or cutting off access to
2 information about lawful abortions.

3 392. Section 11376 of Title 42 authorizes the Secretary of HUD “by notice” to “establish
4 such requirements as may be necessary to carry out the provisions of” the ESG program. “Such
5 requirements shall be subject to section 553 of title 5,” which requires rulemaking to occur
6 pursuant to notice and comment procedures. 42 U.S.C. § 11376.

7
8 393. Pursuant to this authority, HUD has promulgated the ESG Rule at 24 C.F.R. part
9 576, which sets forth additional requirements and conditions on ESG funding. *See* 24 C.F.R. §§
10 576.400–576.409. For instance, the ESG Rule requires ESG recipients to meet minimum safety,
11 sanitation, and privacy standards for emergency shelters; integrate ESG services with other
12 programs targeted to homeless individuals in the area; coordinate with local Continuums; conduct
13 initial evaluations of program participants consistent with HUD requirements; and abide by
14 recordkeeping and reporting requirements. *Id.* §§ 576.400, 576.401, 576.403(b), 576.500.

15
16 394. The ESG Rule also obligates ESG recipients to submit and obtain HUD approval
17 of a consolidated plan in accordance with the requirements in 24 C.F.R. part 91. *Id.* § 576.200.
18 HUD’s consolidated planning regulations set forth additional certifications that must be included
19 in a consolidated plan, including that the jurisdiction will affirmatively further fair housing, is in
20 compliance with anti-lobbying requirements, and possesses the legal authority to carry out
21 programs for which it is seeking funding, among other certifications. *Id.* § 91.225(a).

22
23 395. Neither the ESG Rule nor HUD’s consolidated planning regulations impose any
24 conditions on ESG funding related to prohibiting all kinds of DEI, facilitating enforcement of
25 federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of
26 “gender ideology” or “elective abortion.” Congress has not delegated authority that would permit

1 an agency to adopt such conditions.

2 396. Funding for the ESG program comes from congressional discretionary
3 appropriations.

4 397. Most recently, Congress appropriated funds for the ESG program in the 2024
5 Appropriations Act, 138 Stat. at 362.

6 398. Nothing in the 2024 Appropriations Act or any other legislation authorizes HUD to
7 impose ESG grant fund conditions related to prohibiting all kinds of DEI, facilitating enforcement
8 of federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]”
9 of “gender ideology” or “elective abortion.”
10

11 **4. HOME Investment Partnerships Program**

12 399. Congress established the HOME program through the HOME Investment
13 Partnerships Act (HOME Act), under Title II of the Cranston-Gonzalez National Affordable
14 Housing Act (NAHA), Pub. L. No. 101–625, 104 Stat. 4079, and subsequent amendments. The
15 HOME program is a formula grant program that aims to help state and local governments
16 implement local housing strategies to increase affordable housing opportunities for low-income
17 families. The HOME program requires the HUD Secretary “to make funds available to
18 participating jurisdictions for investment to increase the number of families served with decent,
19 safe, sanitary, and affordable housing and expand the long-term supply of affordable housing.” 42
20 U.S.C. §§ 12741, 12747(b).
21

22 400. Participating jurisdictions may use HOME grants for a variety of housing activities.
23 These include providing “incentives to develop and support affordable rental housing and
24 homeownership affordability through the acquisition, new construction, reconstruction, or
25 moderate or substantial rehabilitation of affordable housing.” *Id.* § 12742(a)(1).
26

1 401. Participating jurisdictions must allocate matching funds to affordable housing
2 projects equivalent to at least 25 percent of the HOME funds the jurisdictions use. *Id.* § 12750.

3 **a.) Congress Imposes Legislative Directives, and HUD Promulgates**
4 **Rules, Regarding HOME Grant Conditions**

5 402. HUD’s administration of the HOME program is authorized and governed by
6 statutory directives. The HOME Act specifies the eligibility requirements to become a
7 participating jurisdiction, the permissible and prohibited uses of HOME funds, the maximum
8 incomes of families who may receive HOME funds, and what housing qualifies as affordable for
9 purposes of the program. *Id.* §§ 12742, 12744, 12475, 12476.

10 403. The HOME Act does not grant HUD discretion in designating which jurisdictions
11 may participate and under what circumstances those jurisdictions shall receive HOME funds. It
12 instead directs the HUD Secretary to establish by regulation the statutorily specified procedures
13 with which states and local governments must comply to be designated as participating
14 jurisdictions and receive allocations of HOME funds. *Id.* § 12746. The HOME Act provides that
15 such regulations “shall *only* provide for the” requirements for allocation, eligibility, notification,
16 submission, reallocation, revocation, and reduction of funds listed in the statute. *Id.* § 12746(1)–
17 (10) (emphasis added). Once a jurisdiction meets the statutory formula and complies with the listed
18 requirements, HUD “*shall* designate” it “a participating jurisdiction” and the jurisdiction “shall
19 remain a participating jurisdiction for subsequent fiscal years” unless certain revocation conditions
20 are met. *Id.* § 12746(7)–(8) (emphasis added).

21 404. The HOME Act further directs the HUD Secretary to “establish by regulation an
22 allocation formula that reflects each jurisdiction’s share of total need among eligible jurisdiction[s]
23 for an increased supply of affordable housing for very low-income and low-income families of
24
25
26

1 different size.” *Id.* § 12747(b)(1)(A). This formula must be based on the “objective measures”
2 specified in the HOME Act. *Id.*

3 405. The Home Act further directs the HUD Secretary to establish a HOME Investment
4 Trust Fund for each participating jurisdiction, along with a line of credit that includes the
5 participating jurisdiction’s allocated HOME funds. *Id.* § 12748(a)–(b).

6 406. As directed by Congress, HUD promulgated the HOME program rule at 24 C.F.R.
7 part 92 (the “HOME Rule”). The HOME Rule implements the allocation formula prescribed by
8 Congress, along with the eligibility and related requirements listed in the HOME Act. *See, e.g.*, 24
9 C.F.R. §§ 92.50, 92.102–07, 92.150, 92.200–22. The HOME Rule also lists other federal
10 requirements with which participating jurisdictions must comply, including the nondiscrimination
11 requirements that apply to all HUD Programs, listed at 24 C.F.R. § 5.105(a), as well as the
12 nondiscrimination requirements in the HOME Act, 42 U.S.C. § 12832, addressed below. 24 C.F.R.
13 § 92.350.

14 407. Neither Congress nor HUD’s regulations authorize HUD to condition HOME
15 funding on opposition to all forms of DEI policies and initiatives through the guise of federal
16 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,
17 verification of immigration status, exclusion of transgender people, or cutting off access to
18 information about lawful abortions.

19 408. NAHA and the HOME Act indicate congressional intent to benefit historically
20 disadvantaged groups. One of Congress’s objectives in enacting NAHA was to “improve housing
21 opportunities for all residents of the United States, particularly members of disadvantaged
22 minorities, on a nondiscriminatory basis.” 42 U.S.C. § 12702(3). The HOME Act requires
23 participating jurisdictions “to establish and oversee a minority outreach program . . . to ensure the
24

1 inclusion, to the maximum extent possible, of minorities and women, and entities owned by
2 minorities and women . . . in all contracts[] entered into by the participating jurisdiction . . . to
3 provide affordable housing authorized under this Act.” 42 U.S.C. § 12831(a). The HOME Act also
4 forbids participating jurisdictions from denying benefits to or otherwise discriminating against any
5 person “on the grounds of race, color, national origin, religion, or sex.” 42 U.S.C. § 12832.
6

7 409. In January 2025, HUD issued a final rule amending the HOME Rule “to update,
8 simplify, or streamline requirements, better align the program with other Federal housing
9 programs, and implement recent amendments to the HOME statute.” HOME Investment
10 Partnerships Program: Program Updates and Streamlining, 90 Fed. Reg. 746, 746 (Jan. 6, 2025).
11 The revised HOME Rule does not add any grant conditions related to DEI, immigration
12 enforcement, verification of immigration status, “gender ideology,” or abortion. The revised
13 HOME Rule was originally set to become effective February 5, 2025, but HUD delayed parts of
14 the Rule until October 2025. HOME Investment Partnerships Program: Program Updates and
15 Streamlining—Delay of Effective Date, Withdrawal, and Correction, 90 Fed. Reg. 16085 (Apr.
16 17, 2025).
17

18 ***b.) Congress Appropriates HOME Grant Funding***

19 410. Funding for the HOME program comes from congressional discretionary
20 appropriations.
21

22 411. Most recently, Congress appropriated \$1,250,000,000 for the HOME program in
23 the 2024 Appropriations Act. 38 Stat. 360. The 2024 Appropriations Act contains additional
24 directives to HUD regarding HOME funding. For instance, it extends the statutory deadline for
25 participating jurisdictions to draw funds from their HOME Investment Trust Fund. *Id.*
26

1 412. None of the 2024 Appropriations Act’s directives to HUD or any other legislation
2 authorize HUD to impose HOME grant conditions related to prohibiting all kinds of DEI,
3 facilitating enforcement of federal immigration laws, verification of immigration status, or
4 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

5
6 **5. The Housing Opportunities for Persons with AIDS Program**

7 413. Congress established the Housing Opportunities for Persons with AIDS (HOPWA)
8 program through the AIDS Housing Opportunity Act, Subtitle D of Title VIII of NAHA, Pub. L.
9 No. 101–625, 104 Stat. 4079, and subsequent amendments. The objective of the HOPWA program
10 is to “to provide States and localities with the resources and incentives to devise long-term
11 comprehensive strategies for meeting the housing needs of persons with acquired
12 immunodeficiency syndrome and families of such persons.” 42 U.S.C. § 12901. To meet this aim,
13 the program authorizes formula grants and competitively awarded grants to provide housing
14 assistance and related supportive services to meet the housing needs of low-income persons living
15 with HIV or AIDS and their families.
16

17 414. The HOPWA program permits grant recipients to use HOPWA funds for a number
18 of housing programs for persons living with HIV or AIDS, including providing information and
19 services, short-term housing, rental assistance, development of single room occupancy dwellings,
20 and development and operation of community residences. *Id.* §§ 12906–910.

21
22 415. Ninety percent of HOPWA funds must be allocated pursuant to a statutory formula
23 based on total population, the number of persons living with HIV or AIDS, fair market rents, and
24 poverty data. *Id.* § 12903(c)(1)(A). The HUD Secretary must award the remaining 10 percent of
25 grant funds on a competitive basis to states and local governments not eligible for a formula grant,
26 or to states, local governments, or nonprofits seeking funding for “special projects of national

1 significance.” *Id.* § 12903(c)(5)(A), (C).

2 **a.) Congress Imposes Legislative Directives, and HUD Promulgates**
3 **Rules Regarding HOPWA Grant Conditions**

4 416. To be eligible for HOPWA funds, states and local governments must submit an
5 application for the HUD Secretary’s approval. *Id.* § 12903(d). Congress instructed the HUD
6 Secretary to establish by regulation procedures for the submission of applications using specified
7 requirements. *Id.* § 12903(d)(1)–(6). Congress also permitted the HUD Secretary to require “other
8 information or certifications” but only to the extent “necessary to achieve the purposes of this
9 section,” *i.e.*, to award formula and competitive grants pursuant to the statutorily listed criteria. *Id.*
10 § 12903(d)(6).

11
12 417. Pursuant to this authority, HUD promulgated the HOPWA program rule at 24
13 C.F.R. part 574 (the “HOPWA Rule”). The HOPWA Rule implements the allocation formula
14 prescribed in the statute, as well as the permissible uses of HOPWA funds. 24 C.F.R. §§ 574.110,
15 130, 300. The Rule also creates an application process for competitive grants, requiring
16 applications “comply with the provisions of the Department’s Notice of Funding Availability
17 (NOFA) for the fiscal year.” *Id.* § 574.240. The HOPWA Rule also sets out conditions grantees
18 and project sponsors must agree to, including compliance with HUD regulations and “such other
19 terms and conditions . . . as HUD may establish for purposes of carrying out the program *in an*
20 *effective and efficient manner.*” *Id.* § 574.500 (emphasis added). The HOPWA Rule further lists
21 other federal requirements with which participating jurisdictions must comply, including the
22 nondiscrimination requirements that apply to all HUD programs listed at 24 C.F.R. § 5.105(a). 24
23 C.F.R. § 574.603.
24
25
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27

1 418. Neither NAHA nor the HOPWA Rule permit HUD to condition HOPWA funding
2 on opposition to all forms of DEI policies and initiatives through the guise of federal
3 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,
4 verification of immigration status, exclusion of transgender people, or cutting off access to
5 information about lawful abortions.
6

7 419. As discussed above, NAHA, which established the HOPWA program, indicates
8 congressional intent to benefit historically disadvantaged groups, including the aim to “improve
9 housing opportunities for . . . members of disadvantaged minorities.” 42 U.S.C. § 12702(3).

10 ***b.) Congress Appropriates HOPWA Grant Funding***

11 420. Funding for HOPWA grants comes from congressional discretionary
12 appropriations. *See id.* § 12912.

13 421. Most recently, Congress appropriated \$505,000,000 for the HOPWA program in
14 the 2024 Appropriations Act. 38 Stat. 358. The 2024 Appropriations Act contains additional
15 directives to HUD regarding HOPWA funding. For instance, it instructs HUD to “renew or replace
16 all expiring contracts for permanent supportive housing . . . before awarding funds for new
17 contracts.” *Id.*

18 422. None of the 2024 Appropriations Act’s directives to HUD or any other legislation
19 authorize HUD to impose HOPWA grant conditions related to prohibiting all kinds of DEI,
20 facilitating enforcement of federal immigration laws, verification of immigration status, or
21 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”
22

23 **6. Numerous Plaintiffs Rely on HUD Block Grants to Serve their
24 Communities**

25 423. Numerous plaintiffs rely on HUD block grant programs, including the block
26

1 programs described above (CDBG, ESG, HOME, and HOPWA), to provide decent, affordable
2 housing and a suitable living environment, and to increase economic opportunities for low- and
3 moderate-income persons throughout their jurisdictions. The programs that these grants support
4 are extensive and essential. These funds are used for programs like the creation and preservation
5 of affordable rental housing, homeownership rehabilitation and weatherization, food banks,
6 childcare and afterschool programs, community development capital improvements, home
7 weatherization, and job training programs. They help those plaintiffs provide basic needs services,
8 including food distribution, basic chore assistance for homebound seniors and disabled persons,
9 support for children who have experienced violence or neglect, and domestic violence prevention
10 for the benefit of low-income individuals and households. They also help those plaintiffs provide
11 housing services, including rental assistance, housing case management, downpayment assistance
12 for first-time homebuyers, and capital development for affordable housing to benefit low-income
13 individuals and households and to create affordable housing, provide rental assistance, and address
14 homelessness in the region. They help prevent and address homelessness, including by supporting
15 emergency shelter services. HOPWA funds provide for subsidies and support services to
16 households that have at least one person living with HIV/AIDS.

19 7. Other HUD Grants

20 424. HUD and its program offices administer a range of other competitive and formula
21 grant programs that some plaintiffs have previously received, currently receive, or are otherwise
22 eligible to receive. Plaintiffs are not aware of Congress ever imposing or authorizing directives for
23 or conditions on these other HUD grants related to a prohibition on all kinds of DEI, facilitating
24 enforcement of immigration laws, verification of immigration status, or prohibiting the
25 “promot[ion]” of “gender ideology” or “elective abortion.”
26

1 425. Congress annually appropriates funding for HUD grant programs. In the annual
2 appropriations legislation, Congress sets forth priorities and directives to the Secretary of HUD
3 with respect to funding. Plaintiffs are not aware of Congress ever imposing or authorizing
4 directives for or conditions on HUD grants related to a prohibition on all kinds of DEI, facilitating
5 enforcement of immigration laws, verification of immigration status, or prohibiting the
6 “promot[ion]” of “gender ideology” or “elective abortion.” *See, e.g.*, Consolidated Appropriations
7 Act, 2021, Pub. L. 116-260, 134 Stat. 1865–1902; Consolidated Appropriations Act, 2022, Pub.
8 L. 117-103, 136 Stat. 725–766; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat.
9 5139–5181; Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 344–386.

11 426. Plaintiffs King County, Pierce County, Snohomish County, Boston, Columbus, San
12 Francisco, Santa Clara, NYC, Bend, Cambridge, Chicago, Culver City, Minneapolis, Nashville,
13 Pasadena, Pima County, Pittsburgh, Portland, San José, Santa Monica, Tucson, King County RHA,
14 Santa Monica HA, Alameda County, Albuquerque, Baltimore, Bellevue, Bellingham, Bremerton,
15 Dane County, Eugene, Hennepin County, Kitsap County, Los Angeles, Milwaukee, Multnomah
16 County, Oakland, Petaluma, Ramsey County, Rochester, San Diego, San Mateo County, Santa
17 Rosa, Sonoma County, Watsonville, CCHA, SCCDC, Albany, Allegheny County, Berkeley,
18 Cincinnati, Delaware County, Denver, LAHSA, New Haven, Olympia, Palo Alto, Port Angeles,
19 Santa Fe, Spokane, Tacoma, and Thurston County (collectively, the “HUD Plaintiffs”) have
20 previously received, currently receive, or are otherwise eligible to receive HUD grants, including
21 CoC grants, CDBG grants, ESG grants, HOME grants, HOPWA grants, and/or other HUD grant
22 funding. These Plaintiffs rely on over \$2.7 billion in appropriated federal funds from HUD grant
23 programs, including for homelessness, housing, and development-related projects and programs
24 undertaken for the benefit of their communities.
25
26

B. DOT Grant Programs

427. Congress established DOT in 1966 “to assure the coordinated, effective administration of the transportation programs of the Federal Government.” Department of Transportation Act, 1966, Pub. L. 89-670, 80 Stat. 931. DOT administers both competitive and formula grant programs. In administering grant programs, DOT often acts through its operating administrations, including the FTA, FHWA, FAA, and FRA. By law, the DOT Secretary is responsible for all acts taken by its operating administrations and the administrators of the FTA, FHWA, FAA, and FRA report directly to the DOT Secretary. 49 U.S.C. §§ 103(b), (d), (g)(1) (FRA); 104(b)(1), (c)(1) (FHWA); 106(b)(1)(E), (f)(3)(A) (FAA); 107(b), (c) (FTA); *see also* 49 C.F.R. Part 1 (organization and authority of DOT).

1. FTA Grant Programs

428. Congress has established by statute a wide variety of grant programs administered by DOT, acting through the FTA, that provide federal funds to state and local governments for public transit services. These include, but are not limited to, programs codified in title 49, chapter 53 of the U.S. Code, as amended by the Fixing America’s Surface Transportation (FAST) Act of 2015, Pub. L. 114-94, 129 Stat. 1312, and the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429.

429. For instance, section 5307 authorizes the Secretary of DOT (the “DOT Secretary”) to make urbanized area formula grants (“UA Formula Grants”), which go toward funding the operating costs of public transit facilities and equipment in urban areas, as well as certain capital, planning, and other transit-related projects. *See* 49 U.S.C. § 5307(a)(1). Section 5307 imposes specific requirements on UA Formula Grant recipients related to the recipient’s operation and control of public transit systems. *See id.* § 5307(c). None of these requirements pertain to a

1 prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.

2 430. Section 5309 establishes certain fixed guideway capital investment grants (“Fixed
3 Guideway Grants”). *See* 49 U.S.C. § 5309(b). This program funds certain state and local
4 government projects that develop and improve “fixed guideway” systems—meaning public transit
5 systems that operate on a fixed right-of-way, such as rail, passenger ferry, or bus rapid transit
6 systems. *Id.* §§ 5302(8), 5309(b). Section 5309 imposes specific requirements on Fixed Guideway
7 Grant recipients related to, for example, the recipient’s capacity to carry out the project, maintain
8 its equipment and facilities, and achieve budget, cost, and ridership outcomes. *See id.* § 5309(c).
9 None of these requirements pertain to a prohibition on all kinds of DEI or facilitating enforcement
10 of federal immigration laws.
11

12 431. Section 5337 authorizes grants to fund state and local government capital projects
13 that maintain public transit systems in a state of good repair, as well as competitive grants for
14 replacement of rail rolling stock (“Repair Grants”). *See* 49 U.S.C. § 5337(b), (f). Section 5337
15 specifically limits what projects may be eligible for Repair Grants, *id.* § 5337(b), and imposes
16 specific requirements on multi-year agreements for competitive rail vehicle replacement grants,
17 *id.* § 5337(f)(7). It does not, however, impose any conditions on Repair Grants related to a
18 prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.
19

20 432. Section 5339 authorizes grants to fund the purchase and maintenance of buses and
21 bus facilities (“Bus Grants”). *See* 49 U.S.C. § 5339(a)(2), (b), (c). The Bus Grant program
22 incorporates the specific funding requirements set forth in section 5307 for UA Formula Grants
23 and imposes other requirements on Bus Grant recipients. *See id.* § 5339(a)(3), (7), (b)(6), (c)(3).
24 Section 5339 does not, however, impose any conditions on Bus Grants related to a prohibition on
25 all kinds of DEI or local participation in enforcement of federal immigration laws.
26

1 433. Congress annually appropriates funding for FTA grant programs, including the four
2 identified above. In the annual appropriations legislation, Congress sets forth priorities and
3 directives to the DOT Secretary with respect to transportation funding. Plaintiffs are not aware of
4 Congress ever imposing or authorizing directives for or conditions on FTA grants related to a
5 prohibition on DEI or local participation in federal immigration enforcement. *See, e.g.*,
6 Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182, 1854; Consolidated
7 Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 716, 724; Consolidated Appropriations Act,
8 2023, Pub. L. 117-328, 136 Stat. 5129, 5138; Consolidated Appropriations Act, 2024, Pub. L. 118-
9 42, 138 Stat. 334, 342.

11 **2. FHWA Grant Programs**

12 434. Congress has established by statute a variety of grant programs administered by
13 DOT, acting through the FHWA, that provide federal funds to state and local governments for road
14 and street infrastructure projects. These include, but are not limited to, programs codified in title
15 23 of the U.S. Code and the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135
16 Stat. 429.

17 435. For instance, Section 24112(b) of the Infrastructure Investment and Jobs Act,
18 established Safe Streets and Roads for All, or SS4A, a competitive grant program that provides
19 funding for improving roadway safety through the development, refinement, and subsequent
20 implementation of comprehensive safety action plans. 135 Stat. 815–817. The Act requires the
21 DOT Secretary to consider, among other things, the extent to which applicants and their proposed
22 projects will ensure “equitable investment in the safety needs of underserved communities in
23 preventing transportation-related fatalities and injuries” and “achieve[] such other conditions as
24 the Secretary considers to be necessary.” *See id.* § 24112(c)(3). None of these considerations

1 pertain to a prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.

2 436. In February 2024, DOT posted a NOFO (updated in April 2024) announcing a
3 competition for SS4A grant funding for Fiscal Year 2024 (the “FY 2024 SS4A NOFO”). *See* U.S.
4 Dep’t of Transp., Notice of Funding Opportunity for FY 2024 Safe Streets and Roads for All
5 Funding (Apr. 16, 2024), [https://www.transportation.gov/sites/dot.gov/files/2024-04/SS4A-](https://www.transportation.gov/sites/dot.gov/files/2024-04/SS4A-NOFO-FY24-Amendment1.pdf)
6 [NOFO-FY24-Amendment1.pdf](https://www.transportation.gov/sites/dot.gov/files/2024-04/SS4A-NOFO-FY24-Amendment1.pdf).

7
8 437. The FY 2024 SS4A NOFO directed applicants to consider policy priorities in their
9 applications, including “Equity and Barriers to Opportunity” and “Climate Change and
10 Environmental Justice.” *Id.* at 39; *see also id.* at 27, 29 (listing “Equity” as a selection criterion for
11 grants). The FY 2024 SS4A NOFO specified that “[e]ach applicant selected for SS4A grant
12 funding must demonstrate effort to improve equity and reduce barriers to opportunity as described
13 in Section A” and stated “the Department seeks to award funds under the SS4A grant program that
14 will create proportional impacts to all populations in a project area, remove transportation related
15 disparities to all populations in a project area, and increase equitable access to project benefits.”
16 *Id.* at 12, 39.

17
18 438. The FY 2024 SS4A NOFO strongly emphasized equity considerations throughout.
19 The NOFO defined “equity” as “[t]he consistent and systematic fair, just, and impartial treatment
20 of all individuals, including individuals who belong to underserved communities that have been
21 denied such treatment, such as Black, Latino, Indigenous and Native Americans, Asian Americans
22 and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay,
23 bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live
24 in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” *Id.* at
25

26 4. The NOFO did not include any grant conditions related to prohibiting all kinds of DEI or

1 facilitating enforcement of federal immigration laws.

2 439. In addition to SS4A, FHWA administers the Federal Highway-Aid Program, which
3 provides federal formula funding for the construction, maintenance and operation of the country's
4 3.9-million-mile highway network, including the Interstate Highway System, primary highways,
5 and secondary local roads.

6 440. The Infrastructure Investment and Jobs Act authorized \$356.5 billion for fiscal
7 years 2022 through 2026 to be used for the Federal Highway-Aid Program. Currently, there are
8 nine core formula funding programs within the Federal Highway-Aid Program: the National
9 Highway Performance Program, 23 U.S.C. § 119; the Surface Transportation Block Grant
10 Highway Performance Program, 23 U.S.C. § 119; the Surface Transportation Block Grant
11 Program, 23 U.S.C. § 133; the Highway Safety Improvement Program, 23 U.S.C. § 148 and 23
12 C.F.R. Part 924; the Railway-Highway Crossings Program, 23 U.S.C. § 130 and 23 C.F.R. Part
13 924; the Congestion Mitigation and Air Quality Improvement Program, 23 U.S.C. § 149; the
14 Metropolitan Planning Program, 23 U.S.C. § 104(d); the National Highway Freight Program, 23
15 U.S.C. § 167; the Carbon Reduction Program, 23 U.S.C. § 175; and the PROTECT Formula
16 Program, 23 U.S.C. § 176. None of these statutes authorizes DOT or FHWA to impose a
17 prohibition on DEI or a requirement to facilitate enforcement of federal immigration laws as a
18 precondition to receive federal grants.

19 441. Section 11118 of the Infrastructure Investment and Jobs Act created the Bridge
20 Investment Program (BIP) to assist states, tribes, and local governments with rehabilitating or
21 replacing bridges to improve safety and efficiency for people and freight moving across bridges.
22 23 U.S.C. § 124(b)(2). The Act directs the DOT Secretary to consider factors such as cost
23 considerations, safety benefits, and mobility improvements. *Id.* §§ 124(f)(3)(B); (g)(4)(B). No part
24 of the BIP's authorizing language describes immigration enforcement or ending DEI as
25

1 considerations for the grant.

2 442. Section 21203 of the Infrastructure Investment and Jobs Act created the National
3 Culvert Removal, Replacement, and Restoration Grant Program, also known as the Culvert
4 Aquatic Organism Passage Program (“Culvert AOP Program”) to assist states, tribes, and local
5 governments with projects that would meaningfully improve or restore passage for anadromous
6 fish (species that are born in freshwater such as streams and rivers, spend most of their lives in the
7 marine environment, and migrate back to freshwater to spawn). 49 U.S.C. § 6703. The Act directs
8 the DOT Secretary to prioritize projects that would improve fish passage for certain categories of
9 anadromous fish stocks or that would open more than 200 meters of upstream habitat before the
10 end of the natural habitat. *Id.* § 6703(e). The FHWA administers some Culvert AOP Program
11 grants on behalf of DOT. No part of the Culvert AOP Program’s authorizing language describes
12 immigration enforcement or ending DEI as considerations for the grant.
13
14

15 443. The FHWA also administers the FY 2023-24 Advanced Transportation Technology
16 and Innovation (ATTAIN) grant program, as directed by Congress in 23 U.S.C. § 503(c)(4).
17 Section 503(c)(4) directs the DOT Secretary to provide grants “to deploy, install, and operate
18 advanced transportation technologies to improve safety, mobility, efficiency, system performance,
19 intermodal connectivity, and infrastructure return on investment.” The DOT Secretary was
20 directed to develop selection criteria that included an enumerated list of considerations, including
21 how the deployment of technology would “improve the mobility of people and goods,” “protect
22 the environment and deliver environmental benefits that alleviate congestion and streamline traffic
23 flow,” and “reduce the number and severity of traffic crashes and increase driver, passenger, and
24 pedestrian safety.” *Id.* Nothing in the statutory provisions authorizing the ATTAIN grant program
25 describes immigration enforcement or ending DEI as considerations for the grant.
26

27 THIRD AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 90

1 444. In fulfillment of the statutory authorization of FHWA grant programs, including
2 the ones identified above, Congress annually appropriates funding for FHWA grants. In
3 appropriations legislation, Congress sets forth priorities and directives to the DOT Secretary with
4 respect to transportation funding, but Plaintiffs are not aware of Congress ever imposing or
5 authorizing directives for or conditions on FHWA grants related to a prohibition on DEI or local
6 participation in federal immigration enforcement. *See, e.g.*, Consolidated Appropriations Act,
7 2021, Pub. L. 116-260, 134 Stat. 1835–1842; Consolidated Appropriations Act, 2022, Pub. L. 117-
8 103, 136 Stat. 697–705; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 5109–
9 5117; Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 315–324.

11 **3. FAA Grant Programs**

12 445. Congress has established by statute a variety of grant programs administered by
13 DOT, acting through the FAA, that provide federal funds to public agencies for planning and
14 development of airports. These include, but are not limited to, programs codified in title 49 of the
15 U.S. Code, as well as the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat.
16 429.

17 446. For instance, the Airport Improvement Program (AIP) is codified under title 49,
18 chapter 471 of the U.S. Code. Under the AIP, the DOT Secretary is authorized to make formula
19 and discretionary grants to recipients (referred to as “sponsors”) for the planning and development
20 of certain public-use airports. 49 U.S.C. 47101 *et seq.* The DOT Secretary may approve AIP grant
21 applications only if the sponsor and project meet certain statutory requirements (for example,
22 consistency with plans for development of the surrounding area, financial capacity, and ability to
23 complete the project “without unreasonable delay”), and only if the sponsor makes certain written
24 assurances based on the type of grant at issue (for example, for airport development grants,
25
26

1 assurances such as “the airport will be available for public use on reasonable conditions and
2 without unjust discrimination” and “the airport and facilities on or connected with the airport will
3 be operated and maintained suitably, with consideration given to climatic and flood conditions”).
4 49 U.S.C. §§ 47106, 47107.

5
6 447. Congress has been precise in the requirements that attach to grant recipients and
7 has set those forth in statute, which has been implemented by DOT through contractual “Grant
8 Assurances” that are terms of every grant agreement. None of the statutory requirements pertains
9 to a prohibition on DEI or a requirement of local participation in the enforcement of federal
10 immigration laws.

11
12 448. AIP funding levels are established periodically by reauthorization acts, such as the
13 FAA Reauthorization Act of 2018, Pub. L. 115-254, 132 Stat. 3186, and the FAA Reauthorization
14 Act of 2024, Pub. L. 118-63, 138 Stat. 1025. The reauthorization acts define the AIP authorization
15 levels, amend the various AIP statutes, and set out directives to the DOT Secretary with respect to
16 airport improvement funding, but they do not impose or authorize directives for or conditions on
17 AIP grants related to a prohibition on DEI or requirement of local participation in federal
18 immigration enforcement.

19
20 449. Similarly, the Airport Infrastructure Grants (AIG) program is authorized under the
21 Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 1416–1418. Under the
22 AIG program, the DOT Secretary is authorized to make formula and discretionary grants for
23 runways, taxiways, airport safety and sustainability projects, as well as terminal, airport transit
24 connections, and roadway projects. Grants made under the AIG program are treated as having been
25 made pursuant to the DOT Secretary’s authority for project grants issued under the AIP statute.
26 135 Stat. 1417–1418. The Infrastructure Investment and Jobs Act sets forth the AIG funding levels

1 but does not impose any conditions on AIG grants related to prohibitions on DEI or requirement
2 of local participation in enforcement of federal immigration laws.

3 450. In fulfillment of the statutory authorization of FAA grant programs, including the
4 ones identified above, Congress annually appropriates funding for FAA grants. In the annual
5 appropriations legislation, Congress sets forth additional priorities and directives to the DOT
6 Secretary with respect to transportation funding, but Plaintiffs are not aware of Congress ever
7 imposing directives for or conditions on FAA grants related to a prohibition on DEI or a
8 requirement of local participation in federal immigration enforcement. *See, e.g.*, Consolidated
9 Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1830–1835, 1939–1941; Consolidated
10 Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 691–697; Consolidated Appropriations Act,
11 2023, Pub. L. 117-328, 136 Stat. 5101–5108; Consolidated Appropriations Act, 2024, Pub. L. 118-
12 42, 138 Stat. 307–314.

13 14 15 **4. FRA Grant Programs**

16 451. Congress has established by statute a variety of grant programs administered by
17 DOT, acting through the FRA, that provide federal funds to public agencies for rail infrastructure
18 projects. These include, but are not limited to, programs codified in title 49 of the U.S. Code, as
19 well as the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429.

20 452. For example, the Railroad Crossing Elimination (RCE) Grant Program, authorized
21 in Section 22305 of the Infrastructure Investment and Jobs Act, directed the DOT Secretary, in
22 cooperation with the FRA Administrator, to establish a competitive grant program that provides
23 funds to improve the safety and mobility of people and goods at railway crossings. 49 U.S.C.
24 § 22909. Section 22305 limits eligibility for the RCE program to certain entities such as states and
25 local governments. *Id.* § 22909(c). It also directs that the Secretary “shall” evaluate certain criteria

1 for selecting projects funded by the grants, including, among other things, whether the proposed
2 projects would “improve safety at highway-rail or pathway-rail crossings”; “grade separate,
3 eliminate, or close highway-rail or path-way rail crossings”; “improve the mobility of people or
4 goods”; “reduce emissions, protect the environment, and provide community benefits, including
5 noise reduction”; “improve access to emergency services”; “provide economic benefits”; and
6 “improve access to communities separated by rail crossings.” *Id.* § 22909(d), (f). None of these
7 considerations pertains to prohibiting DEI or facilitating enforcement of federal immigration laws.
8

9 453. Funding for the RCE program was made available for FY 2024 and 2025 through
10 advance appropriations provided in the Infrastructure Investment and Jobs Act and by remaining
11 unawarded FY 2022 RCE Program balances. 135 Stat. 1436. The appropriations provisions do not
12 impose or authorize directives for or conditions on FRA grants related to prohibiting DEI or to
13 local participation in federal immigration enforcement.
14

15 5. DOT SMART Grant Program

16 454. Section 25005 of the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-
17 58, 135 Stat. 429, established the Strengthening Mobility and Revolutionizing Transportation
18 (SMART) discretionary grant program with \$100 million appropriated annually for fiscal years
19 2022-2026. 135 Stat. 840–845.
20

21 455. The SMART grant program was established to provide grants to eligible public
22 sector agencies for projects focused on advanced smart community technologies and systems in
23 order to improve transportation efficiency and safety. It is a two-stage program: any eligible entity
24 can apply for a Stage 1 grant, and a Stage 1 grantee can apply for a Stage 2 grant to expand the
25 applicable project.
26

1 456. Section 25005 limits eligibility for the SMART grant program to certain entities
2 such as states and local governments. 135 Stat. 840. It establishes a set of selection criteria, to be
3 identified in the NOFO, that include the extent to which the eligible entity or applicable beneficiary
4 community has a public transportation system and has the “functional capacity to carry out the
5 proposed project” as well as the extent to which the proposed project will, among other things,
6 “reduce congestion and delays for commerce and the traveling public”; “improve the safety and
7 integration of transportation facilities and systems for pedestrians, bicyclists, and the broader
8 traveling public”; “improve access to jobs, education, and essential services, including health
9 care”; and “connect or expand access for underserved or disadvantaged populations and reduce
10 transportation costs.” *Id.* at 841. Moreover, in providing SMART grants, the DOT Secretary “shall
11 give priority to” projects that would, among other things “promote a skilled workforce that is
12 inclusive of minority or disadvantaged groups.” *Id.* at 842. None of the eligibility, selection, or
13 prioritization criteria pertains to prohibiting DEI or facilitating enforcement of federal immigration
14 laws.
15

16
17 457. Section 25005(g) authorizes appropriation of \$100 million for each of the first five
18 years of the SMART grant program, and directs that certain percentages of those appropriations
19 be provided to projects benefitting large, mid-sized, and rural communities and regional
20 partnerships. *Id.* at 845. This appropriation provision does not impose or authorize directives for
21 or conditions on SMART grants related to prohibiting DEI or to local participation in federal
22 immigration enforcement.
23

24 458. As required, the SMART grant NOFOs for FY 2024 tracked the statutory
25 description of eligibility, selection criteria, and priorities. For example, the FY 2024 Stage 1 NOFO
26 identified as a “goal or objective of the program” and a program priority to “[c]onnect or expand
27

1 access for underserved or disadvantaged populations.” Nothing in the FY 2024 Stage 1 or Stage 2
2 NOFOs pertains to prohibiting DEI or facilitating enforcement of federal immigration laws.

3 459. Plaintiffs Alameda County, Albuquerque, Baltimore, Bellevue, Bellingham,
4 Bremerton, Cambridge, Dane County, Eugene, Healdsburg, Hennepin County, Kitsap County, Los
5 Angeles, Milwaukee, Milwaukee County, Multnomah County, Oakland, Pacifica, Pasadena,
6 Petaluma, PSRC, Ramsey County, Rochester, Rohnert Park, San Diego, San Mateo County, Santa
7 Rosa, SCTA, and Watsonville join existing plaintiffs King County, Pierce County, Snohomish
8 County, San Francisco, Santa Clara, Boston, Columbus, NYC, Bend, Chicago, Culver City,
9 Denver, Minneapolis, Nashville, Pima County, Pittsburgh, Portland, San José, Santa Monica,
10 Sonoma County, Tucson, Wilsonville, Intercity Transit, Port of Seattle, SFCTA, Sound Transit,
11 TIMMA, Albany, Allegheny County, Berkeley, Bothell, Cincinnati, Delaware County, New
12 Haven, Palo Alto, Port Angeles, Santa Fe, Tacoma, and Thurston County (collectively, the “DOT
13 Plaintiffs”). Each of these Plaintiffs have previously received, currently receive, or are otherwise
14 eligible to receive DOT grants, directly and/or on a pass-through basis. DOT Plaintiffs rely on over
15 \$7.5 billion in appropriated federal funds from DOT grant programs for transportation-related
16 projects undertaken for the benefit of their communities.

19 C. HHS Grant Programs

20 460. Congress established the precursor to HHS—the cabinet-level Department of
21 Health, Education, and Welfare—in 1953. After a separate Department of Education was created
22 in 1979, HHS took its current name. Today, HHS is the largest grant-making agency in the United
23 States. It administers both competitive grant programs and formula and block grant programs that
24 provide funds to local governments to enhance the health and well-being of their communities. In
25 administering grant programs, HHS often acts through its operating divisions and agencies, such
26

1 as the Administration for Children and Families (ACF), the Centers for Disease Control and
2 Prevention (CDC), the Centers for Medicare & Medicaid Services (CMS), the Health Resources
3 and Services Administration (HRSA), the Substance Abuse and Mental Health Services
4 Administration (SAMHSA), and the National Institutes of Health (NIH), among others. *See* U.S.
5 Dep’t Health & Hum. Servs., HHS Agencies & Offices, [https://www.hhs.gov/about/agencies/hhs-](https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html)
6 [agencies-and-offices/index.html](https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html) (last visited June 27, 2025). The Secretary of HHS is responsible
7 for overseeing the actions of its operating divisions and agencies. *See, e.g.*, 42 U.S.C. §§ 12311,
8 12312 (establishment of ACF within HHS; functions of ACF Commissioner); 42 U.S.C. § 290aa
9 (similar for SAMHSA and its head; authority of HHS Secretary); 42 U.S.C. § 242c (appointment
10 and authority of CDC Director; functions of HHS Secretary); 42 U.S.C. § 282 (appointment and
11 authority of NIH Director; functions of HHS Secretary); 42 U.S.C. §§ 202–203 (organization of
12 Public Health Service, which includes NIH, within HHS); 42 U.S.C. § 1317 (appointment of CMS
13 Administrator); U.S. Dep’t Health & Hum. Servs., Centers for Medicare & Medicaid Services, 66
14 Fed. Reg. 35437 (Jul. 5, 2001) (establishing CMS and delegating authority from HHS Secretary
15 to CMS Administrator). Some examples of the grants administered by HHS and its operating
16 divisions and agencies are discussed below.

19 **1. Administration for Children and Families Programs**

20 461. ACF administers discretionary and formula grants to support programs that serve
21 children and families. Grants administered by ACF include funds authorized by Congress under
22 Title IV and Title XX of the Social Security Act of 1935 (the “Social Security Act”).
23

24 ***a.) Temporary Assistance for Needy Families Program***

25 462. In 1996, Congress enacted PRWORA and authorized the block grant of the
26 Temporary Assistance for Needy Families (TANF), Pub. L. 104-193, 110 Stat. 2105, codified at

1 42 U.S.C. §§ 601-619. In enacting TANF, Congress replaced Aid to Families with Dependent
2 Children and revised Title IV-A of the Social Security Act.

3 463. The TANF program is one of the nation’s primary economic security and stability
4 programs for low-income children and families. Awarded as a block grant to states and then to
5 local jurisdictions, TANF is used to provide income support to low-income families with children,
6 as well as services including childcare and refundable tax credits. U.S. Dep’t Health & Hum.
7 Servs., Admin. for Children & Families, Office of Family Assistance,
8 <https://acf.gov/ofa/programs/tanf/about> (last updated Sept. 27, 2024).

9
10 464. The Office of Family Assistance—an office of ACF—administers Title IV-A
11 funds through the TANF program.

12 465. The statutory purpose of TANF “is to increase the flexibility of states” to achieve
13 four statutory goals: (1) provide assistance to needy families so children can be cared for in their
14 own homes or the homes of relatives; (2) end dependence of parents on government benefits; (3)
15 reduce the incidence of out-of-wedlock pregnancies; and (4) promote the formation and
16 maintenance of two-parent families. 42 U.S.C. § 601(a). States have authority to use federal TANF
17 funds “in any manner that is reasonably calculated to accomplish” the statutory purpose. 42 U.S.C.
18 § 604(a)(1).

19
20 466. 45 C.F.R. § 260 sets forth the regulations that apply to TANF. Section 260 does
21 not authorize conditions on TANF grants related to prohibiting all forms of DEI, exclusion of
22 transgender individuals, denying services to immigrants, or adherence to executive orders
23 unrelated to the purpose of the grant.

24
25 467. 42 U.S.C. § 608 sets forth requirements for states that receive TANF block grants,
26 including the requirement to prevent unauthorized spending of benefits, 42 U.S.C. § 608 (a)(12),

1 and the development of individual responsibility plans, *id.* § 608(b). It further identifies
2 prohibitions—and exceptions to certain prohibitions—for a state’s use of TANF funds. Section
3 608 does not authorize conditions on TANF grants related to prohibiting all forms of DEI,
4 exclusion of transgender individuals, denying services to immigrants, or adherence to executive
5 orders unrelated to the purpose of the grant.
6

7 468. Section 1912 of the Full-Year Continuing Appropriations and Extensions Act,
8 2025, Pub. L. 119-4, 139 Stat. 9, funds TANF through September 30, 2025. Section 1912 does not
9 authorize conditions on grants related to prohibiting all forms of DEI, exclusion of transgender
10 individuals, denying services to immigrants, or adherence to executive orders unrelated to the
11 purpose of the grant.
12

13 ***b.) Title IV-B Program***

14 469. Title IV-B of the Social Security Act, first established in 1935, provides funding
15 to states for child welfare services. Title IV-B provides funds to strengthen child welfare service
16 programs and promote the development and expansion of coordinated child and family services
17 programs.
18

19 470. On January 4, 2025, Congress reauthorized and amended child welfare programs
20 under Title IV-B through the Supporting America’s Children and Families Act, Pub. L. 118-258,
21 138 Stat. 2947. The Supporting America’s Children and Families Act reauthorized appropriations
22 for Title IV-B programs through fiscal year 2029.
23

24 471. The Children’s Bureau—an office of ACF—provides Title IV-B grants to support
25 programs that serve children and families. Among the Title IV-B grant programs are the Stephanie
26 Tubbs Jones Child Welfare Services Program and the MaryLee Allen Promoting Safe and Stable
27 Families (PSSF) program.

1 472. The Stephanie Tubbs Jones Child Welfare Services Program, Title IV-B Subpart
2 1, provides formula grants to develop and expand child and family services programs. Congress
3 authorized the program under Title IV, Part B, Subpart 1, sections 421–420 of the Social Security
4 Act. The program is codified at 42 U.S.C. §§ 621–625 and § 628.

5 473. The purpose of the Stephanie Tubbs Jones Child Welfare Services Program is to
6 “promote State flexibility in the development and expansion of a coordinated child and family
7 services program that utilizes community-based agencies and ensures all children are raised in
8 safe, loving families” by protecting and promoting the welfare of children; preventing neglect,
9 abuse or exploitation of children; supporting at-risk families through services that allow children
10 to remain with or return to their families; promoting the safety, permanency, and well-being of
11 children in foster care and adoptive families; and providing training, professional development and
12 support to ensure a well-qualified workforce. 42 U.S.C. § 621. Funds may be used to support the
13 program purposes. U.S. Dep’t Health & Hum. Servs., Admin. For Children & Families, Children’s
14 Bureau, [https://acf.gov/cb/grant-funding/100stephanie-tubbs-jones-child-welfare-services-](https://acf.gov/cb/grant-funding/100stephanie-tubbs-jones-child-welfare-services-program-title-iv-b-subpart-1-child)
15 [program-title-iv-b-subpart-1-child](https://acf.gov/cb/grant-funding/100stephanie-tubbs-jones-child-welfare-services-program-title-iv-b-subpart-1-child) (last updated April 22, 2019).

16 474. Program specific implementing regulations for the Stephanie Tubbs Jones Child
17 Welfare Services Program are located at 45 C.F.R. parts 1355 and 1357. These regulations do not
18 authorize conditions on the Stephanie Tubbs Jones Child Welfare Services Program related to
19 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
20 or adherence to executive orders unrelated to the purpose of the grant. Section 1357.30 sets forth
21 the requirements for Stephanie Tubbs Jones Child Welfare Services Program funds allotted or
22 reallocated to states. Section 1357.30 does not authorize conditions related to prohibiting all forms
23 of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to

1 executive orders unrelated to the purpose of the grant.

2 475. The PSSF program provides formula grants with the purpose of preventing child
3 maltreatment and the unnecessary separation of children from their families. Congress authorized
4 the PSSF program under Title IV, Part B, Subpart 2, sections 430–437 of the Social Security Act.
5 The program is codified at 42 U.S.C. § 629, *et seq.*
6

7 476. The PSSF program’s purpose is “to enable States to develop and establish, and to
8 operate coordinated programs of community-based family support services” for family
9 preservation, family reunification, adoption promotion and support services. 42 U.S.C. § 629.

10 477. 42 U.S.C. § 629b sets forth requirements for states that receive PSSF program
11 funds. Section 629b does not authorize conditions related to prohibiting all forms of DEI, exclusion
12 of transgender individuals, denying services to immigrants, or adherence to executive orders
13 unrelated to the purpose of the grant.
14

15 478. Implementing regulations for the PSSF program are located at 45 C.F.R. parts
16 1355 and 1357. These regulations do not authorize conditions on PSSF program funds related to
17 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
18 or adherence to executive orders unrelated to the purpose of the grant.

19 479. Section 1357.32 sets forth the requirements for PSSF program funds allocated to
20 states. Section 1357.32 does not authorize conditions related to prohibiting all forms of DEI,
21 exclusion of transgender individuals, denying services to immigrants, or adherence to executive
22 orders unrelated to the purpose of the grant.
23

24 480. Section 103 of the Supporting America’s Children and Families Act, which
25 reauthorized funding for Title IV-B programs through FY2029, does not authorize conditions on
26 grants related to prohibiting all forms of DEI, exclusion of transgender individuals, denying
27

1 services to immigrants, or adherence to executive orders unrelated to the purpose of the grant.

2 *c.) Title IV-E Program*

3 481. In 1980, Congress enacted the Adoption Assistance and Child Welfare
4 Amendments of 1980, establishing a new Title IV-E Foster Care and Adoption Assistance
5 entitlement program.

6 482. The Children’s Bureau administers Title IV-E grants to support programs that
7 serve children and families. The purpose of Title IV-E is to enable states to provide “foster care
8 and transitional independent living programs,” “adoption assistance for children with special
9 needs,” and “kinship guardian assistance.” 42 U.S.C. § 670. The administration of these programs
10 is authorized by Congress under Part E, Sections 470–479B of Title IV of the Social Security Act
11 and codified at 42 U.S.C. §§ 670–679c. Among the Title IV-E grant programs are the Foster Care
12 program and the Adoption Assistance program.

13 483. The Foster Care program provides funding to states to provide safe and stable out-
14 of-home care for eligible children and youth until they are safely returned home, placed
15 permanently with adoptive families or legal guardians, or placed in other planned arrangements
16 for permanency. U.S. Dep’t Health & Hum. Servs., Admin. for Children & Families, Children’s
17 Bureau, <https://acf.gov/cb/grant-funding/title-iv-e-foster-care> (last updated June 28, 2024).

18 484. 42 U.S.C. § 672 sets forth the requirements for Foster Care program funding
19 eligibility. Section 672 does not authorize conditions on grants related to prohibiting all forms of
20 DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to
21 executive orders unrelated to the purpose of the grant.

22 485. The Adoption Assistance program, section 473 of Title IV-E, provides funds to
23 states to facilitate the timely placement of children whose special needs or circumstances would

1 otherwise make their placement with adoptive families difficult. U.S. Dep’t Health & Hum. Servs.,
2 Admin. for Children & Families, Children’s Bureau, [https://acf.gov/cb/grant-funding/title-iv-e-](https://acf.gov/cb/grant-funding/title-iv-e-adoption-assistance)
3 adoption-assistance (last updated June 27, 2024).

4 486. 42 U.S.C. § 673 sets forth the requirements for Adoption Assistance program
5 funding eligibility. Section 673 does not authorize conditions on grants related to prohibiting all
6 forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence
7 to executive orders unrelated to the purpose of the grant.
8

9 487. Regulations applicable to Title IV-E are located at 45 CFR Part 1356. These
10 regulations do not authorize conditions on PSSF program funds related to prohibiting all forms of
11 DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to
12 executive orders unrelated to the purpose of the grant.
13

14 488. Section 1109(b)(4) of the Full-Year Continuing Appropriations and Extensions
15 Act, 2025, Pub. L. 119-4, 139 Stat. 9, funds Title IV-E through September 30, 2025. Section
16 1109(b)(4) does not authorize conditions on grants related to prohibiting all forms of DEI,
17 exclusion of transgender individuals, denying services to immigrants, or adherence to executive
18 orders unrelated to the purpose of the grant.
19

20 ***d.) Title XX Social Services Block Grant***

21 489. Title XX of the Social Security Act, first established in 1975, allocates federal
22 funding for social services to the states according to population size. In 1981, Congress amended
23 Title XX of the Social Security Act through the Omnibus Budget Reconciliation Act of 1981, Pub.
24 L. 97-35, 95 Stat. 172. This amendment established the Social Services Block Grant (SSBG),
25 codified at 42 U.S.C. §§ 1397–1397i.
26
27

1 490. The Office of Community Services—an office of ACF—administers the SSBG.

2 491. The SSBG supports the provision of social services directed at the following goals:

3 (1) achieving or maintaining economic self-support, (2) achieving or maintaining self-sufficiency,
4 (3) preventing or remedying the neglect or abuse of children and adults, (4) providing community-
5 based and home-based alternatives to institutional care, and (5) securing referral or admission for
6 institutional care when alternative forms of care are not appropriate. 42 U.S.C. § 1397. States have
7 broad discretion in using SSBG funds to meet these goals. *Id.* (describing one purpose of the SSBG
8 as “increasing State flexibility in using social service grants”); U.S. Dep’t of Health & Hum.
9 Servs., Admin. for Children & Families, Office of Community Services,
10 <https://acf.gov/ocs/programs/ssbg/about> (last updated June 10, 2019).

11
12 492. Program-specific implementing regulations for the SSBG are located at 45 CFR
13 §§ 96.70–96.74. These regulations, which principally set forth the transferability of funds and
14 annual reporting requirements, do not authorize conditions on the SSBG related to prohibiting all
15 forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence
16 to executive orders unrelated to the purpose of the grant.

17
18 493. Statutory restrictions on the SSBG are located at 42 U.S.C. §§ 1397c–1397e.
19 Sections 1397c and 1397e impose reporting, audit, and accounting requirements on the states.
20 Section 1397d prohibits the use of SSBG funds for a limited set of purposes, including buying or
21 improving land, paying room and board outside of rehabilitation or temporary emergency shelter,
22 paying wages, and providing medical care. None of these statutory restrictions authorize
23 conditions on the SSBG related to prohibiting all forms of DEI, exclusion of transgender
24 individuals, denying services to immigrants, or adherence to executive orders unrelated to the
25 purpose of the grant.
26

1 **2. Health Resources and Services Administration Programs**

2 494. The Health Resources and Services Administration (HRSA) within HHS awards
3 grant funding to more than 3,000 recipients, including state and local governments, to support
4 health services projects, such as training health care workers and providing specific health services.
5 Elayne J. Heisler, Cong. Rsch. Serv., R46001, Health Resources and Services Administration
6 (HRSA) FY2020 President’s Budget Request and Agency Funding History: In Brief (Nov. 12,
7 2019).
8

9 495. HRSA awards a variety of competitive and formula grants in several program areas,
10 including Primary Care/Health Centers, Health Workforce Training, HIV/AIDS, Organ Donation,
11 Maternal and Child Health, Rural Health, and other areas. Grants, U.S. Dep’t Health & Hum.
12 Servs., Health Res. & Servs. Admin., <https://data.hrsa.gov/topics/grants> (last updated May 20,
13 2025).
14

15 496. Among HRSA’s largest grant programs are the Health Center Program (HCP) and
16 the Ryan White HIV/AIDS (RWHA) program.

17 **a.) The Health Center Program**

18 497. Congress authorized the federal HCP program through Section 330 of the Public
19 Health Service Act (PHSA), as amended. 42 U.S.C. § 254b. The HCP program funds grants to
20 support qualified outpatient facilities that provide primary care to low-income individuals and
21 other underserved communities, as specified in the statute.
22

23 498. In particular, the HCP program supports four types of health centers: (1) community
24 health centers (CHCs), (2) health centers for the homeless (HCHs), (3) health centers for residents
25 of public housing, and (4) migrant health centers. *See id.* §254b(a), (g), (h), (i). The majority of
26 these are CHCs, which must provide “primary health services” to medically underserved
27

1 populations and serve all residents of the CHC's services area. *Id.* § 2549(a). HCHs provide
2 services to individuals experiencing or at risk of homelessness and are required to provide all
3 services CHCs provide as well as substance abuse treatment. *Id.* § 2549(h). Health centers for
4 residents of public housing are located in, and offer primary care services to those who reside in
5 or near, public housing facilities. *Id.* § 2549(i). Finally, migrant health centers provide care to
6 migratory and seasonal agricultural workers and their families. *Id.* § 2549(g).

8 499. Funding for the HCP program comes from a combination of discretionary funding,
9 appropriated by Congress each year, and mandatory funding from the Community Health Center
10 Fund. By statute, HCH programs receive 8.7% of HCP funds.

11 500. In addition to the HCP grants themselves, health centers that receive funding under
12 Section 330 of the PHSA become eligible for other congressionally authorized benefits. For
13 instance, such health centers are eligible for designation as Federally Qualified Health Centers
14 (FQHCs), which entitles them to higher, cost-based Medicare and Medicaid reimbursement rates.
15 *Id.* §§ 1395i(a)(1)(z), 1395m(o), 1395x(aa)(3). FQHCs may also receive drug discounts under
16 Section 340B of the PHSA. *Id.* § 256b.

18 501. Section 330 of the PHSA sets out numerous requirements that health centers must
19 meet to ensure that HCP-funded facilities serve as part of a safety net for underserved communities.
20 In addition to the requirements set forth above, Congress requires that HCP-funded health centers
21 provide services to all patients regardless of ability to pay. 42 U.S.C. § 254b(k)(3). Recipients
22 must therefore have fee schedules consistent with locally prevailing wages while covering
23 operating costs, and must offer discounts based on the patient's ability to pay. *Id.* § 254b(k)(3)(G).
24 They must also be located in areas or serve populations that the HHS Secretary has designated as
25 "medically underserved." *Id.* § 254b(a)(1), (b)(3), (c)(1), (e)(1)(A). The statute sets forth additional
26

1 detailed funding conditions concerning Medicaid coordination and reimbursement, governance,
2 provision of services, reporting, and quality assurance. *Id.* § 254b(b)(1), (k)(3)(C), (F), (H), (I),
3 (q).

4 502. Section 330 of the PHSA does not authorize conditions on HCP grants related to
5 prohibiting DEI in all forms, excluding transgender individuals, denying services to immigrants,
6 or incorporating executive orders unrelated to providing health care to underserved populations.
7

8 503. The HHS Secretary has promulgated regulations further governing the HCP
9 program at 42 C.F.R. parts 51c and 56 (the “HCP Rule”). Among other things, the HCP Rule sets
10 forth additional limitations on the use of HCP funds, 42 C.F.R. § 51c.107, and enumerates project
11 requirements and criteria the HHS Secretary will consider in awarding grants based on the purpose
12 of the funds, *id.* §§ 51c.203, 51c.204, 51c.303, 51c.305, 51c.403, 51c.404., 51c.504. For instance,
13 in reviewing proposals to plan or develop new health centers, the HHS Secretary must consider
14 the relative need of the population to be served by the proposed project, the health center’s
15 potential for developing new and effective methods for providing services, and the distribution of
16 resources across the country. *Id.* § 51c.204. The HCP Rule also sets forth specific requirements
17 for migrant health centers, including a requirement that they provide specific services to migrant
18 and seasonal agricultural workers’ needs, such as supportive services, environmental health
19 services, accident prevention, and prevention and treatment of health conditions related to
20 pesticide exposure. 42 C.F.R. § 56.102(g).
21

22 504. The HCP Rule does not impose any conditions on HCP grants related to prohibiting
23 DEI in all forms, excluding transgender individuals, or incorporating executive orders unrelated
24 to providing health care to underserved populations.
25

1 **b.) *Ryan White HIV/AIDS Program***

2 505. In 1990, Congress established the Ryan White HIV/AIDS (RWHA) program as
3 part of the Ryan White Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, 104
4 Stat. 576, and has revised and extended it several times, including in the Ryan White HIV/AIDS
5 Treatment Modernization Act of 2006, Pub. L. 109-415, 120 Stat. 2767, and the Ryan White
6 HIV/AIDS Treatment Extension Act of 2009, Pub. L. 111-87, 123 Stat. 2885. The program is
7 codified at Title 42, Subchapter XXIV of the U.S. Code and contains four major parts. Among
8 these are Part A, which provides grants to urban areas and mid-sized cities, 42 U.S.C. §§ 300ff-11
9 to 300ff-20; Part B, which provides grants to states and territories, *id.* §§ 300ff-21 to 300ff-38; and
10 Part C, which funds HIV outpatient primary care to low-income and medically underserved people
11 living with HIV/AIDS, *id.* §§ 300ff-51 to 300ff-67.

12 **(i.) *RWHA Part A Program***

13 506. Part A of the RWHA program provides grants for medical and support services to
14 eligible metropolitan areas with high levels of reported AIDS cases in the previous five years. *Id.*
15 § 300ff-11(a). HRSA distributes two-thirds of appropriated Part A grants non-competitively to
16 eligible metropolitan areas based on a statutory formula, *id.* § 300ff-13(a)(2)–(3), and the
17 remaining one-third via competitive supplemental grants awarded based on the applicant’s
18 demonstrated need, *id.* § 300ff-13(b). With respect to the two-thirds comprised of formula grants,
19 the Secretary has no discretion to withhold funding and is required to allocate grants based on a
20 formula that considers how many individuals are living with HIV/AIDS in the jurisdiction. *See id.*
21 § 300ff-13(a)(2), (3).

22 507. Congress has imposed detailed conditions on RWHA Part A grants. For instance,
23 Part A grant recipients must spend 75% of awarded funds on “core medical services,” which are
24

1 defined to include outpatient/ambulatory medical care services, AIDS pharmaceutical assistance,
2 home health care, and mental health and substance abuse outpatient services, among others. *Id.*
3 § 300ff-14(c). The remaining Part A funds must go toward “support services,” such as outreach,
4 medical transportation, and referrals, as well as statutorily permitted administrative expenses. *Id.*
5 § 300ff-14(c)(1), (d). Congress has also mandated that grant recipients establish HIV Health
6 Services Planning Councils to set priorities for care delivery and has prescribed several related
7 requirements. *Id.* § 300ff-12(b).

9 508. Congress has also enacted statutory factors that HRSA must consider in awarding
10 competitive supplemental grants to applicants based on demonstrated need. These include the rates
11 of HIV/AIDS, impacts of co-morbid factors, and prevalence of homelessness in the applicant’s
12 area. *Id.* § 300ff-13(b)(2)(B).

13
14 509. Neither the statutes governing the RWHA Part A program nor any other legislation
15 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
16 transgender individuals, denying services to immigrants, or adherence to executive orders
17 unrelated to providing health services for low-income individuals with HIV/AIDS.

18 (ii.) *RWHA Part B Program*

19 510. The RWHA Part B program provides grants to each of the 50 states, the District of
20 Columbia, Guam, and the Virgin Islands for services such as drug treatments, home and
21 community-based health care, support services, or health insurance coverage for low income
22 individuals living with HIV/AIDS, among other services. 42 U.S.C. §§ 30ff-22–26. Some of these
23 states and territories pass through RWHA Part B funds to subrecipients, including local
24 governments. One portion of RWHA Part B is the AIDS Drug Assistance Program (ADAP), which
25 receives separate appropriations from Congress. *Id.* § 300ff-26. The remaining funding goes
26

1 toward Part B base grants and supplemental grants. Base grants are awarded pursuant to a formula
2 based on the number of individuals living with HIV/AIDS cases in the state or territory relative to
3 various comparators. *Id.* § 300ff-28. Supplemental grants under RWHA Part B are awarded to
4 states and territories with a demonstrated need based on increasing rates of HIV/AIDS cases,
5 unmet needs for services, and other factors. *Id.* § 300ff-29a.

6
7 511. Congress has imposed detailed conditions on RWHA Part B grants. For instance,
8 as in the Part A program, recipients of Part B funds must spend 75% of awarded funds on “core
9 medical services” and 25% on “support services,” which are each limited to specifically defined
10 activities. *Id.* § 300ff-22. The Part B program also authorizes states and territories to award grants
11 to subrecipients and imposes additional requirements on such sub-awards based on the type of
12 services the subrecipient will provide. *See id.* §§ 300ff-23–24. For example, Congress has
13 authorized states and territories to award grants for home- and community-based health services,
14 but requires states and territories to prioritize providers who serve low-income individuals with
15 HIV/AIDS and participate in an HIV care consortium. *Id.* § 300ff-24(b).

16
17 512. The statute authorizes the Secretary of HHS to require other “agreements,
18 assurances, and information” from states and territories, but only to the extent “necessary to carry
19 out” the Secretary’s authority to “make grants to . . . enable . . . States to improve the quality,
20 availability and organization of health care and support services for individuals and families with
21 HIV/AIDS.” *Id.* §§ 300ff-27(a), 300ff-21.

22
23 513. Congress has also authorized states and territories to award grants using RWHA
24 Part B funds to certain associations, called HIV care consortia, comprised of public or private
25 service providers and community based organizations in areas most affected by HIV/AIDS. 42
26 U.S.C. § 300ff-23. In doing so, Congress set forth specific agreements and assurances related to

1 the purposes of the Part B program that HIV care consortia must make as a condition to receiving
2 funds. For instance, HIV care consortia must “agree to use such assistance for the planning,
3 development and delivery . . . of comprehensive outpatient health and support services for
4 individuals with HIV/AIDS.” *Id.* § 300ff-23(a)(2).

5
6 514. The assurances and application requirements Congress specified for HIV care
7 consortia under RWHA Part B indicate a statutory purpose to address the needs of minority and
8 underserved communities. For instance, each HIV care consortium must provide an assurance that
9 “the populations and subpopulations of individuals and families with HIV/AIDS have been
10 identified by the consortium, particularly those experiencing disparities in access and services and
11 those who reside in historically underserved communities.” *Id.* § 300ff-23(b)(1)(A). The
12 consortium must also provide an assurance that it has established a service plan that “addresses
13 the special care and service needs of” such historically underserved communities. *Id.* § 300ff-
14 23(b)(1)(B). Finally, Congress specified grant application requirements that HIV care consortia
15 must meet to be eligible for funding, including that the application “demonstrates that adequate
16 planning occurred to address disparities in access and services and historically underserved
17 communities.” *Id.* § 300ff-23(c)(1)(F).

18
19 515. Neither the statutes governing the RWHA Part B program nor any other legislation
20 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
21 transgender individuals, denying services to immigrants, or adherence to executive orders
22 unrelated to providing health services for low-income individuals with HIV/AIDS.

23
24 (iii.) *RWHA Part C Program*

25 516. RWHA Part C grants emphasize services designed to intervene early to improve
26 health outcomes for low-income individuals with HIV/AIDS. HRSA awards RWHA Part C grants

1 competitively to eligible facilities, including municipal health facilities, that serve medically
2 underserved populations. 42 U.S.C. § 300ff-52(a). Congress has mandated that HRSA prioritize
3 applicants experiencing increased burdens on HIV/AIDS services when awarding RWHA Part C
4 grants. *Id.* § 300ff-53.

5
6 517. Like Part A and Part B grants, Part C grants are subject to specific statutory
7 requirements. For instance, Part C grant recipients must also provide a mix of statutorily prescribed
8 “core services” and “supportive serves.” *Id.* § 300ff-51(b)(1). At least half of allocated funding
9 must go toward such services that focus on early intervention, including HIV/AIDS testing and
10 referrals. *Id.* § 300ff-51(b)(2). The statute also requires applicants to agree to certain funding
11 conditions, including that the applicant will only use funds for statutorily authorized purposes, will
12 establish fiscal control and accounting procedures, and will establish a clinical quality management
13 program, among others. *Id.* § 300ff-64(g). Finally, Congress has mandated conditions on the use
14 of funds for HIV/AIDS counseling, including that counseling programs may not directly promote
15 intravenous drug use or sexual activity and must educate patients on the availability of hepatitis a
16 and b vaccines. *Id.* § 300ff-67.

17
18 518. Neither the statutes governing the RWHA Part C program nor any other legislation
19 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
20 transgender individuals, or adherence to executive orders unrelated to providing early intervention
21 services for low-income individuals with HIV/AIDS.

22 23 **3. Substance Abuse and Mental Health Services Administration 24 Programs**

25 519. The Substance Abuse and Mental Health Services Administration (SAMHSA)
26 within HHS, “funds organizations providing substance use and mental health services, research,

1 technical assistance, and training to advance the behavioral health and to improve the lives of
2 individuals living with mental and substance use disorders, and their families.” *Grants*, SAMHSA,
3 <https://www.samhsa.gov/grants> (last visited July 1, 2025). SAMHSA administers both
4 competitive, discretionary grant programs and “noncompetitive, formula grant” programs
5 “mandated by the U.S. Congress.” *Id.* Examples of these noncompetitive block grants include the
6 Community Mental Health Services Block Grant and the Substance Use Prevention, Treatment,
7 and Recovery Services Block Grant.

9 520. One key discretionary SAMHSA grant program is the Substance Abuse and Mental
10 Health Services Projects of Regional and National Significance. For example, plaintiff San
11 Francisco receives funds under this program for its Building City-Wide Capacity for Community
12 and Traditional First Responders in Overdose Response grant (“First Responders Grant”). The
13 First Responder Grant is used to train first responders to treat those experiencing an overdose, an
14 unfortunate reality of the ongoing opioid epidemic.

16 521. Authority for SAMHSA to issue grants under the Substance Abuse and Mental
17 Health Services Projects of Regional and National Significance program comes, for example, from
18 42 U.S.C. § 290ee-1, titled “First responder training.” This statute lists the required criteria for a
19 grant application and allowable uses for grant funds. *Id.* Neither the criteria for the grant
20 application nor the listed uses for grant funds authorize conditions on these grants related to
21 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
22 or adherence to executive orders unrelated to the purpose of the grant.

24 522. One of the requirements in SAMHSA’s Notice of Award (NOA) under this
25 program is a “Disparity Impact Statement (DIS),” which needs to include “[a] quality improvement
26 plan for how [recipients will use program data] to monitor and manage program outcomes by race,

1 ethnicity, and LGBT status, when possible.” SAMHSA also required the quality improvement plan
 2 to “include strategies for how processes and/or programmatic adjustments will support efforts to
 3 reduce disparities for the identified sub-populations.” The NOA does not include any grant
 4 conditions related to prohibiting all kinds of DEI, exclusion of transgender people, or adherence
 5 to executive orders unrelated to overdose response.
 6

7 523. SAMHSA grants also support other programs that provide emergency mental and
 8 behavioral health services, all of which are subject to statutory directives and conditions. *See* 42
 9 U.S.C. §§ 290dd-3 to 290ee-2, 290ee-3 to 290ee-3a, 290ee-5 to 290ee-5a, 290ee-7 to 290ee-10.
 10 None of the statutes establishing these programs authorize conditions on these grants related to
 11 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to
 12 immigrants, or adherence to executive orders unrelated to the purpose of the grant.
 13

14 4. Centers for Disease Control and Prevention Grant Programs

15 524. The Centers for Disease Control and Prevention (CDC) within HHS describes itself
 16 as “the nation’s leading science-based, data-driven, service organization that protects the public’s
 17 health.” *Home*, CDC, <https://www.cdc.gov/> (last accessed June 30, 2025). CDC provides much of
 18 the funding to support public health systems and activities by state and local governments. Josh
 19 Michaud, et al., *CDC’s Funding for State and Local Public Health: How Much and Where Does*
 20 *it Go?*, KFF, [https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-](https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-health-how-much-and-where-does-it-go/)
 21 [health-how-much-and-where-does-it-go/](https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-health-how-much-and-where-does-it-go/) (Apr. 7, 2025). In FY 2023, CDC obligated almost \$15
 22 billion to state and local jurisdictions. *Id.* The CDC’s funding supports a range of programs
 23 including HIV/AIDS, Viral Hepatitis, STI, and TB Prevention; Chronic Disease Prevention and
 24 Health Promotion; Public Health Preparedness and Response; and Injury Prevention and Control.
 25

26 *Grant Funding Profiles – Funding Category View*, CDC,

1 <https://fundingprofiles.cdc.gov/Category/Category> (last visited June 30, 2025).

2 525. For example, one of the grants awarded by CDC is the High-Impact HIV Prevention
3 and Surveillance Programs for Health Departments grant, which is a part of CDC’s funding for
4 HIV/AIDS, Viral Hepatitis, STI, and TB Prevention. As explained by the most recent 2024 NOFO
5 for this program, the grant funds recipients “to implement a comprehensive, person-centered HIV
6 prevention and surveillance program to prevent new HIV infections and improve the health of
7 people with HIV.”
8

9 526. The NOFO for this program includes as a *required* element, “Addressing Social
10 and Structural Factors.” The NOFO recognizes that “[t]he impact of racism, homophobia,
11 transphobia, and stigma significantly exacerbates the health disparities experienced among
12 communities disproportionately affected by HIV. Health equity is a desirable goal that entails
13 special efforts to improve the health of those who have experienced social or economic
14 disadvantage.” With respect to the “Population(s) of Focus,” the NOFO explains that “Applicants
15 must provide HIV services to populations within the jurisdiction that are disproportionately
16 impacted by HIV as identified by their epidemiological data, gaps in services, or need,” and
17 “Examples to consider based on national and local data, include transgender women, cisgender
18 Black or African American women, gay and bisexual men, American Indian or Alaska Native gay
19 and bisexual men, people who inject drugs (PWID), youth, pregnant and postpartum persons and
20 their infants, and other populations with disproportionately higher rates of HIV diagnosis including
21 individuals involved in the justice system and people experiencing housing insecurity.”
22

23
24 527. The NOFO did not include any grant conditions related to prohibiting all kinds of
25 DEI, exclusion of transgender people, or adherence to executive orders unrelated to HIV/AIDS
26 surveillance and prevention.

1 528. Statutory authority for the Fiscal Year 2024 High-Impact HIV Prevention and
2 Surveillance Programs for Health Departments grant comes from 42 U.S.C. § 247c(b)–(c) and the
3 Consolidated Appropriations Act of 2016, Pub. L. 114-113, 129 Stat. 2242. 42 U.S.C. § 247c
4 authorizes HHS to make grants like the High-Impact HIV Prevention and Surveillance Programs
5 for Health Departments grant. It also identifies authorized conditions on the grants, including
6 recordkeeping requirements, 42 U.S.C. § 247c(e)(3), and patient confidentiality mandates, *id.*
7 § 247c(e)(5). Neither 42 U.S.C. § 247c nor the Consolidated Appropriations Act of 2016 authorize
8 or impose conditions on this grant related to prohibiting all forms of DEI, exclusion of transgender
9 individuals, denying services to immigrants, or adherence to executive orders unrelated to
10 HIV/AIDS surveillance and prevention.
11

12 **5. Teen Pregnancy Prevention Program**

13 529. In 2009, Congress established the Teen Pregnancy Prevention (TPP) program “to
14 fund competitive contracts and grants to public and private entities” for “medically accurate and
15 age appropriate programs that reduce teen pregnancy.” Consolidated Appropriations Act of 2010,
16 Pub. L. 111-117, 123 Stat. 3034, 3253 (2009). The TPP program is administered by the Office of
17 Population Affairs (OPA), a division of HHS’s Office of the Assistant Secretary for Health. About,
18 U.S. Dep’t Health & Hum. Servs., Off. Population Affs., <https://opa.hhs.gov/about> (last visited
19 June 16, 2025).
20

21 530. TPP grants are competitively awarded to public and private entities to implement a
22 range of evidence-based and innovative approaches for influencing youth to make healthy
23 decisions that reduce unintended teen pregnancy and associated risk behaviors. Since establishing
24 the program, Congress has continuously funded TPP grants at approximately consistent levels and
25 with the same statutory requirements. *See* Pub. L. 118-47, 138 Stat. 460, 671 (2024); Pub. L. 117-
26

1 328, 136 Stat. 4459, 4876 (2022); Pub. L. 117-103, 136 Stat. 49, 463 (2022); Pub. L. 116-260, 134
2 Stat. 1182, 1587 (2020); Pub. L. 116-94, 133 Stat. 2534, 2575 (2019); Pub. L. 115-245, 132 Stat.
3 2981, 3087 (2018); Pub. L. 115-31, 131 Stat. 135, 536 (2017); Pub. L. 114-113, 129 Stat. 2242,
4 2617 (2015); Pub. L. 113-76, 128 Stat. 5, 380 (2014); Pub. L. 113-6, 127 Stat. 198, 412–13 (2013)
5 (carrying forward prior year’s provisos); Pub. L. 112-74, 125 Stat. 786, 1080 (2011); Pub. L. 112-
6 10, 125 Stat. 38, 161-62 (2011); Pub. L. 111-117, 123 Stat. 3034, 3253 (2009).

7
8 531. Through these appropriations laws, Congress has established specific requirements
9 for the TPP program. These requirements group TPP grants into two categories, which HHS refers
10 to as “Tier 1” and “Tier 2” grants. Jessica Tollestrup, Cong. Rsch. Serv., R45183, *Adolescent*
11 *Pregnancy: Federal Prevention Programs*, at 7 (Aug. 22, 2024),
12 https://www.congress.gov/crs_external_products/R/PDF/R45183/R45183.11.pdf.

13
14 532. Congress has allocated 75% of TPP funds (after administration costs) to Tier 1
15 grants, which must be used to “replicat[e] programs that have been proven effective through
16 rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage
17 pregnancy, or other associated risk factors.” Further Consolidated Appropriations Act, 2024, Pub.
18 L. 118-47, 138 Stat. 460, 671.

19
20 533. The remaining 25% of TPP funds must go toward Tier 2 grants, which are “research
21 and demonstration grants” intended “to develop, replicate, refine, and test additional models and
22 innovative strategies for preventing teenage pregnancy.” *Id.*

23
24 534. The appropriations laws that establish and fund the TPP program do not authorize
25 HHS to condition Tier 1 or Tier 2 TPP funds on opposition to all forms of DEI, exclusion of
26 transgender people, denying services to immigrants, or adherence to executive orders with no
27 connection to evidence-based prevention of teen pregnancy.

1 535. TPP grant recipients receive funding through two processes: a competitive award
2 cycle, in which they propose and are awarded funding for Tier 1 or Tier 2 programs over a multi-
3 year period, and an annual non-competitive continuing award process in which recipients apply to
4 HHS to receive a one-year continuing award as part of the multi-year project period. HHS
5 regulations codify the procedures governing this practice.
6

7 536. These regulations are primarily codified at 45 C.F.R. Part 75, which governs the
8 award of grants and cooperative agreements by HHS and its agencies. Pursuant to 45 C.F.R.
9 § 75.203, HHS announces competitions for grants and cooperative agreements, including TPP
10 funding, via a public NOFO.

11 537. HHS regulations do not impose any conditions on TPP funding related to
12 prohibiting all kinds of DEI, exclusion of transgender people, or adherence to executive orders
13 unrelated to teen pregnancy prevention.
14

15 538. In March 2023, OPA posted a NOFO (“Tier 2 NOFO”) announcing a competitive
16 process for Tier 2 TPP cooperative agreement awards for Fiscal Years 2023–2028. U.S. Dep’t
17 Health & Hum. Servs., Off. Population Affs., Notice of Funding Opportunity: Teen Pregnancy
18 Prevention Tier 2 Rigorous Evaluation Cooperative Agreements (Mar. 14, 2023),
19 <https://apply07.grants.gov/apply/opportunities/instructions/PKG00280464-instructions.pdf>.

20 539. The Tier 2 NOFO stated HHS’s goal of using “new and innovative approaches” to
21 “equitably bolster adolescent health outcomes and advance health equity,” which HHS stated
22 “requires valuing everyone equally with focused and ongoing societal efforts to address avoidable
23 inequalities, historical and contemporary injustices, and the elimination of health and health care
24 disparities.” *Id.* at 6.
25
26

1 540. The Tier 2 NOFO did not include any grant conditions or indicate that awards
2 would be conditioned on acceptance of conditions related to prohibiting all kinds of DEI, exclusion
3 of transgender people, or adherence to executive orders unrelated to teen pregnancy prevention.

4 **6. Other HHS Grants**

5 541. HHS and its operating divisions and agencies administer a range of other grant
6 programs that some plaintiffs have previously received, currently receive, or are otherwise eligible
7 to receive. Plaintiffs are not aware of Congress ever imposing or authorizing directives for or
8 conditions on these other HHS grants related to a prohibition on all kinds of DEI, exclusion of
9 transgender people, denying services to immigrants, or adherence to executive orders unrelated to
10 the purpose of the grant.

11 542. Congress annually appropriates funding for HHS grant programs. In the annual
12 appropriations legislation, Congress sets forth priorities and directives to the Secretary of HHS
13 with respect to funding. Plaintiffs are not aware of Congress ever imposing or authorizing
14 directives for or conditions on HHS grants related to a prohibition on DEI, exclusion of transgender
15 people, denying services to immigrants, or adherence to executive orders unrelated to the purpose
16 of the grant. *See, e.g.*, Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1523–
17 28, 1567–98; Consolidated Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 397–402, 441–
18 74; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4808–13, 4854–87;
19 Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 272–77, 397–419.

20 543. Plaintiffs King County, Pierce County, Snohomish County, Boston, Columbus,
21 NYC, San Francisco, Santa Clara, Cambridge, Chicago, Denver, Minneapolis, Wilsonville,
22 Alameda County, Baltimore, Cambridge, Dane County, Eugene, Hennepin County, Milwaukee,
23 Multnomah County, Oakland, Pacifica, Pima County, Ramsey County, Rochester, San Mateo

1 County, Wilsonville, Allegheny County, Berkeley, Cincinnati, Delaware County, Nashville, New
2 Haven, Santa Fe, Thurston County, and Tucson (collectively, the “HHS Plaintiffs”) have
3 previously received, currently receive, or are otherwise eligible to receive HHS grants. These
4 Plaintiffs rely on over \$2.1 billion in appropriated federal funds from HHS direct or pass-through
5 grant programs for health and human services-related projects undertaken for the benefit of their
6 communities.
7

8 **D. Following President Trump’s Inauguration, Defendants Unilaterally Impose**
9 **New Conditions on HUD, DOT, and HHS Grant Funds.**

10 **1. President Trump Issues Executive Orders Directing Federal Agencies**
11 **to Impose New Conditions on Federal Grants**

12 544. Since taking office, President Trump has issued numerous executive orders
13 purporting to direct the heads of executive agencies to impose conditions on federal funding that
14 bear little or no connection to the purposes of the grant programs Congress established, lack
15 statutory authorization, conflict with the law as interpreted by the courts, and are even at odds with
16 the purposes of the grants they purport to amend. Instead, the conditions appear to require federal
17 grant recipients to agree to promote the political agenda President Trump campaigned on during
18 his run for office and has continued espousing since, including opposition to all forms of DEI
19 policies and initiatives, participation in aggressive and lawless immigration enforcement,
20 exclusion of transgender people, and cutting off access to lawful abortions. These unlawful
21 conditions are imposed to direct and coerce grant recipients to comply with the President’s policy
22 agenda.
23

24 545. The “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”
25 executive order directs each federal agency head to include “in every contract or grant award” a
26 term that the contractor or grant recipient “certify that it does not operate any programs promoting
27

1 DEI” that would violate federal antidiscrimination laws. Exec. Order 14173 § 3(b)(iv)(B), 90 Fed.
2 Reg. 8633 (Jan. 21, 2025) (the “DEI Order”). The certification is not limited to programs funded
3 with federal grants. *Id.* § 3(b)(iv).

4 546. The DEI Order also directs each agency head to include a term requiring the
5 contractor or grant recipient to agree that its compliance “in all respects” with all applicable federal
6 nondiscrimination laws is “material to the government’s payment decisions” for purposes of the
7 False Claims Act (FCA), 31 U.S.C. §§ 3729 et seq. *Id.* § 3(b)(iv)(A). The FCA imposes liability
8 on “any person” who “knowingly presents, or causes to be presented, a false or fraudulent claim
9 for payment or approval.” 31 U.S.C. § 3729(a)(1)(A). For FCA liability to attach, the alleged
10 misrepresentation must be “material to the Government’s payment decision”—an element the U.S.
11 Supreme Court has called “demanding.” *Universal Health Servs., Inc. v. United States ex rel.*
12 *Escobar*, 579 U.S. 176, 192, 194 (2016). Each violation of the FCA is punishable by a civil penalty
13 of up to \$27,894 today—plus mandatory treble damages sustained by the federal government
14 because of that violation. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.5(a). Given the demands of proving
15 materiality and the severity of penalties imposed by the FCA, the certification term represents
16 another effort to coerce compliance with the President’s policies by effectively forcing grant
17 recipients to concede an essential element of an FCA claim.

18 547. The DEI Order does not define the term “DEI.” As explained below, subsequent
19 executive agency memoranda and letters make clear that the Trump Administration’s conception
20 of what federal antidiscrimination law requires, including what constitutes a purportedly “illegal”
21 DEI program, is inconsistent with the requirements of federal nondiscrimination statutes as
22 interpreted by the courts.

1 548. The “Ending Taxpayer Subsidization of Open Borders” executive order directs all
2 agency heads to ensure “that Federal payments to States and localities do not, by design or effect,
3 facilitate the subsidization or promotion of illegal immigration, or abet so-called ‘sanctuary’
4 policies that seek to shield illegal aliens from deportation.” Executive Order 14218 § 2(ii), 90 Fed.
5 Reg. 10581 (Feb. 19, 2025) (the “Immigration Order”).
6

7 549. The Immigration Order also purports to implement the Personal Responsibility and
8 Work Opportunity Reconciliation Act (PRWORA), pursuant to which certain federal benefits are
9 limited to individuals with qualifying immigration status. *See* 8 U.S.C. § 1611(a). In particular, the
10 Immigration Order directs all agency heads to “identify all federally funded programs administered
11 by the agency that currently permit illegal aliens to obtain any cash or non-cash public benefit”
12 and “take all appropriate actions to align such programs with the purposes of this order and the
13 requirements of applicable Federal law, including . . . PRWORA.” *Id.* § 2(i).
14

15 550. On April 28, 2025, President Trump issued additional executive orders related to
16 immigration and law enforcement. The “Protecting American Communities from Criminal Aliens”
17 executive order states that “some State and local officials . . . continue to use their authority to
18 violate, obstruct, and defy the enforcement of Federal immigration laws” and directs the Attorney
19 General in coordination with the Secretary of Homeland Security to identify “sanctuary
20 jurisdictions,” take steps to withhold federal funding from such places, and develop “mechanisms
21 to ensure appropriate eligibility verification is conducted for individuals receiving Federal public
22 benefits . . . from private entities in a sanctuary jurisdiction, whether such verification is conducted
23 by the private entity or by a governmental entity on its behalf.”
24 <https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities->

25 [from-criminal-aliens/](https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities-). The “Strengthening and Unleashing America’s Law Enforcement to Pursue
26
27
THIRD AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 122

1 Criminals and Protect Innocent Citizens” executive order directs the Attorney General to, among
2 other things, “prioritize prosecution of any applicable violations of Federal criminal law with
3 respect to State and local jurisdictions” whose officials “willfully and unlawfully direct the
4 obstruction of criminal law, including by directly and unlawfully prohibiting law enforcement
5 officers from carrying out duties necessary for public safety and law enforcement” or “unlawfully
6 engage in discrimination or civil-rights violations under the guise of “diversity, equity, and
7 inclusion” initiatives that restrict law enforcement activity or endanger citizens.”
8 [https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-](https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-america-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/)
9 [americas-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/](https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-america-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/).

11 551. The “Defending Women from Gender Ideology Extremism and Restoring
12 Biological Truth to the Federal Government” executive order directs agency heads to “take all
13 necessary steps, as permitted by law, to end the Federal funding of gender ideology” and “assess
14 grant conditions and grantee preferences” to “ensure grant funds do not promote gender ideology.”
15 Exec. Order No. 14168 § 3(e), (g), 90 Fed. Reg. 8615 (Jan. 20, 2025) (the “Gender Ideology
16 Order”). The Gender Ideology Order states that “[g]ender ideology” replaces the biological
17 category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false
18 claim that males can identify as and thus become women and vice versa, and requiring all
19 institutions of society to regard this false claim as true.” *Id.* § 2(f). It goes on to state that “[g]ender
20 ideology includes the idea that there is a vast spectrum of genders that are disconnected from one’s
21 sex” and is therefore “internally inconsistent, in that it diminishes sex as an identifiable or useful
22 category but nevertheless maintains that it is possible for a person to be born in the wrong sexed
23 body.” *Id.*

1 552. The “Enforcing the Hyde Amendment” executive order declares it the policy of the
2 United States “to end the forced use of Federal taxpayer dollars to fund or promote elective
3 abortion.” Exec. Order No. 14182, 90 Fed. Reg. 8751 (Jan. 24, 2025) (the “Abortion Order”). The
4 Acting Director of the U.S. Office of Management and Budget (OMB) issued a memorandum to
5 the heads of the executive agencies providing guidance on how agencies should implement the
6 Abortion Order. Memorandum from Acting Director of OMB Matthew J. Vaeth to Heads of
7 Executive Departments and Agencies (Jan. 24, 2025), [https://www.whitehouse.gov/wp-](https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf)
8 [content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf](https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf) (the “OMB
9 Memo”). The OMB Memo told agency heads that the Trump Administration’s policy is “not to
10 use taxpayer funds to fund, facilitate, *or promote* abortion, including travel or transportation to
11 obtain an abortion, consistent with the Hyde Amendment and other statutory restrictions on
12 taxpayer funding for abortion.” *Id.* (emphasis added). The OMB Memo further instructed agency
13 heads to “reevaluate” policies and other actions to conform with the Abortion Funding Order, audit
14 federally funded activities suspected to contravene the Abortion Funding Order, and submit a
15 monthly report to OMB on each agency’s progress in implementing the OMB Memo. *Id.*

18 **2. HUD and Its Program Offices Attach New, Unlawful Conditions to**
19 **HUD Grants**

20 553. HUD and its program offices have implemented President Trump’s Executive
21 Orders by making changes to HUD policy and attaching, or announcing that it will attach, new
22 and unlawful conditions (collectively, the “HUD Grant Conditions”) across the expansive portfolio
23 of HUD grants established by Congress and demanding grant recipients’ agreement to those new
24 conditions in grant application and agreements.

1 *a.) HUD attaches new, unlawful conditions to CoC grants*

2 554. In or around March and April of 2025, following President Trump’s issuance of the
3 executive orders described above and Defendant Turner’s confirmation as HUD Secretary, HUD
4 presented CoC Plaintiffs with CoC grant agreements (collectively, the “CoC Grant Agreements”)
5 for some of the CoC funds CoC Plaintiffs were awarded. These CoC Grant Agreements contain
6 additional grant conditions that were not included in the FYs 2024 & 2025 NOFO, and are not
7 authorized by the Homeless Assistance Act, the Appropriations Act, or the Rule HUD itself
8 promulgated to implement the CoC program. HUD has required CoC Plaintiffs agree to these
9 conditions to receive the CoC funds they are entitled to.
10

11 (i.) *Overview of New, Unlawful Conditions*

12 555. Each of the CoC Grant Agreements presented to CoC Plaintiffs contains
13 substantially the same unlawful, new terms and conditions, including the following (collectively,
14 the “CoC Grant Conditions”):
15

16 556. First, the CoC Grant Agreements state that “[t]his Agreement, the Recipient’s use
17 of funds provided under this Agreement . . . , and the Recipient’s operation of projects assisted
18 with Grant Funds” are “governed by” not only certain specified statutes, rules, and grant-related
19 documents, but also by “all current Executive Orders.” The CoC Grant Agreements further require
20 recipients to comply with “applicable requirements that . . . may [be] establish[ed] from time to
21 time to comply with . . . other Executive Orders” (together, the “CoC EO Condition”).
22

23 557. Second, a grant recipient must certify that:

24 it does not operate any programs that violate any applicable Federal
25 anti-discrimination laws, including Title VI of the Civil Rights Act
26 of 1964.

1 The recipient must further agree that that this condition is “material” for purposes of the FCA by
2 agreeing that:

3 its compliance in all respects with all applicable Federal anti-
4 discrimination laws is material to the U.S. Government’s payment
5 decisions for purposes of [the FCA].

6 (together, the “CoC Discrimination Condition”).

7 558. While CoC Plaintiffs have routinely certified compliance with federal
8 nondiscrimination laws as a condition of federal funding in the past, the Administration’s
9 communications to federal grant recipients make clear that the agencies seek compliance with the
10 Trump Administration’s novel, incorrect, and unsupported interpretation of federal
11 nondiscrimination law as barring any and all DEI programs. Without Congress passing his anti-
12 DEI agenda, President Trump instead purports to have granted himself unchecked Article II
13 powers to legislate by executive order and impose his decrees on state and local governments
14 seeking grant funding.

15 559. Third, the CoC Grant Agreements provide:

16 No state or unit of general local government that receives funding
17 under this grant may use that funding in a manner that by design or
18 effect facilitates the subsidization or promotion of illegal
19 immigration or abets policies that seek to shield illegal aliens from
20 deportation

21 The CoC Grant Agreements further require recipients to comply with “applicable requirements
22 that . . . may [be] establish[ed] from time to time to comply with . . . [the Immigration Order] . . or
23 immigration laws ” (together, the “CoC Enforcement Condition”).³

24
25 _____
26 ³ More recent grant agreements contain updated language that precisely recites the Immigration
27 Order. In these, the last part of this condition reads “...or abets *so-called* “sanctuary” policies
that seek to shield illegal aliens from deportation.

1 560. Fourth, the CoC Grant Agreements impose requirements purportedly related to
2 PRWORA and other immigration eligibility and verification requirements:

3 The recipient must administer its grant in accordance with all
4 applicable immigration restrictions and requirements, including the
5 eligibility and verification requirements that apply under title IV of
6 [PRWORA] and any applicable requirements that HUD, the
7 Attorney General, or the U.S. Center for Immigration Services [*sic*]
8 may establish from time to time to comply with PRWORA,
9 Executive Order 14218, or other Executive Orders or immigration
10 laws.

11

12 Subject to the exceptions provided by PRWORA, the recipient must
13 use [the Systematic Alien Verification for Entitlements (SAVE)
14 system], or an equivalent verification system approved by the
15 Federal government, to prevent any Federal public benefit from
16 being provided to an ineligible alien who entered the United States
17 illegally or is otherwise unlawfully present in the United States.

18 (the “CoC Verification Condition”).

19 561. Fifth, the CoC Grant Agreements require the recipient to agree that it “shall not use
20 grant funds to promote ‘gender ideology,’ as defined in” the Gender Ideology Order (the “CoC
21 Gender Ideology Condition”).

22 562. Finally, the CoC Grant Agreements require the recipient to agree that it “shall not
23 use any Grant Funds to fund or promote elective abortions, as required by” the Abortion Order
24 (the “CoC Abortion Condition”).

25 563. These conditions are unconstitutional and unlawful for several reasons. As an initial
26 matter, neither the Homeless Assistance Act, the Appropriations Act, PRWORA, nor any other
27 legislation authorizes HUD to attach these conditions to federal funds appropriated for CoC grants.

(ii.) *The CoC EO Condition is unlawful*

564. The CoC EO Condition purports to incorporate *all* executive orders as

1 “govern[ing]” the use of CoC funds and operation of CoC projects. These orders in many ways
2 purport to adopt new laws by presidential fiat, amend existing laws, and overturn court precedent
3 interpreting laws. In so doing, the CoC EO Condition seeks to usurp Congress’s prerogative to
4 legislate and its power of the purse, as well as the judiciary’s power to say what the law means.

5
6 565. Further, the CoC EO Condition is unconstitutionally vague. Executive orders are
7 the President’s directives to federal agencies. These orders are unintelligible as applied to grant
8 recipients. Further, the directives as implemented in the unlawful conditions at issue are vague and
9 unintelligible.

10 (iii.) *The CoC Discrimination Condition is unlawful*

11 566. CoC Plaintiffs have routinely certified compliance with federal nondiscrimination
12 laws as a condition of federal funding. But executive agency memoranda and letters make clear
13 that the Trump Administration’s conception of an “illegal” DEI program is contrary to actual
14 nondiscrimination statutes and is inconsistent with what any court has endorsed when interpreting them.

15
16 567. For instance, a February 5, 2025 letter from Attorney General Pam Bondi to DOJ
17 employees states that DOJ’s Civil Rights Division will “penalize” and “eliminate” “illegal DEI
18 and DEIA” activities and asserts that such activities include any program that “divide[s]
19 individuals based on race or sex”—potentially reaching affinity groups or teaching about racial
20 history. Letter from Pam Bondi, Attorney General, to all DOJ Employees (Feb. 5, 2025),
21 <https://www.justice.gov/ag/media/1388501/dl?inline>.

22
23 568. That broad conception is confirmed in a letter from DOT Secretary Sean Duffy to
24 all recipients of DOT funding stating that “[w]hether or not described in neutral terms, any policy,
25 program, or activity that is premised on a prohibited classification, including discriminatory
26 policies or practices designed to achieve so-called [DEI] goals, presumptively violates Federal

1 Law.” Letter from Sean Duffy, DOT Secretary, to All Recipients of DOT Funding (April 24, 2025)
2 (“Duffy Letter”), [https://www.transportation.gov/sites/dot.gov/files/2025-](https://www.transportation.gov/sites/dot.gov/files/2025-04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf)
3 [04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf](https://www.transportation.gov/sites/dot.gov/files/2025-04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf).

4 569. Defendant Turner has stated that “HUD is carrying out Present Trump’s executive
5 orders, mission, and agenda,” by “[a]lign[ing] all programs, trainings, and *grant agreements* with
6 the President’s Executive Orders, removing diversity, equity, inclusion (DEI).” Press Release No.
7 25-059, *HUD Delivers Mission-Minded Results in Trump Administration’s First 100 Days*,
8 <https://www.hud.gov/news/hud-no-25-059> (emphasis added).

9 570. Taking to the Twitter platform now known as “X,” Defendant Turner expressed
10 how his agency intends to enforce the new conditions on HUD CoC Grants, stating, “CoC
11 funds . . . will not promote DEI, enforce ‘gender ideology,’ support abortion, subsidize illegal
12 immigration, and discriminate against faith-based groups.” Scott Turner Post of Mar. 13, 2025,
13 <https://x.com/SecretaryTurner/status/1900257331184570703>.

14 571. Neither the text of Title VI, nor any other statute or other condition enacted by
15 Congress, prohibits recipients of federal funding from according concern to issues of diversity,
16 equity, or inclusion. The Supreme Court has never interpreted Title VI to prohibit diversity, equity,
17 and inclusion programs. Indeed, existing case law rejects the Trump Administration’s expansive
18 views on nondiscrimination law with respect to DEI. For example, this Court recently confirmed
19 the lawfulness of a local government’s use of affinity groups and DEI initiatives in a case raising
20 federal nondiscrimination law and equal protection claims. *See generally Diemert v. City of*
21 *Seattle*, 2:22-CV-1640, 2025 WL 446753 (W.D. Wash. Feb. 10, 2025). The President has no
22 authority to declare, let alone change, federal nondiscrimination law by executive fiat. Yet, the
23 DEI Order seeks to impose his views on DEI as if they were the law by using federal grant

1 conditions and the threat of FCA enforcement to direct and coerce federal grant recipients into
2 acquiescing in his Administration’s unorthodox legal interpretation of nondiscrimination law.

3 572. Accepting these conditions would permit Defendants to threaten CoC Plaintiffs
4 with burdensome and costly enforcement action, backed by the FCA’s steep penalties, if they
5 refuse to align their activities with President Trump’s political agenda. This threat is intensified by
6 the CoC Grant Agreements’ provision that purports to have recipients concede the DEI
7 certification’s “materiality”—an otherwise “demanding” element of an FCA claim. Further, even
8 short of bringing a suit, the FCA authorizes the Attorney General to serve civil investigative
9 demands on anyone reasonably believed to have information related to a false claim—a power that
10 could be abused to target grant recipients with DEI initiatives the Trump Administration
11 disapproves of. *Id.* § 3733.

12
13
14 573. The FCA is intended to discourage and remedy fraud perpetrated against the United
15 States—not to serve as a tool for the Executive to impose unilateral changes to nondiscrimination
16 law, which is instead within the province of Congress in adopting the laws and the Judiciary in
17 interpreting them.

18 (iv.) *The CoC Enforcement Condition is unlawful*

19 574. Congress has not delegated to HUD authority to condition CoC grant funding on a
20 recipient’s agreement not to “promot[e] . . . illegal immigration” or “abet[] policies that seek to
21 shield illegal aliens from deportation.” It also is unclear what type of conduct this might
22 encompass, leaving federal grant recipients without fair notice of what activities would violate the
23 prohibition and by giving agencies free rein to arbitrarily enforce it.

24
25 575. Indeed, on April 24, 2025, Judge William H. Orrick of the United States District
26 Court for the Northern District of California preliminarily enjoined the federal government from

1 “directly or indirectly taking any action to withhold, freeze, or condition federal funds from”
2 sixteen cities and counties—including Plaintiffs King County, San Francisco, Santa Clara,
3 Minneapolis, Portland, and San José—on the basis of Section 2(a)(ii) of the Immigration Order,
4 which directs that no “Federal payments” be made to states and localities if the “effect,” even
5 unintended, is to fund activities that the Administration deems to “facilitate” illegal immigration
6 or “abet so-called ‘sanctuary’ policies.” *City & Cnty. of San Francisco v. Trump*, 25-CV-01350-
7 WHO, 2025 WL 1186310 (N.D. Cal. Apr. 24, 2025). The court ruled that the direction “to
8 withhold, freeze, or condition federal funding apportioned to localities by Congress, violate[s] the
9 Constitution’s separation of powers principles and the Spending Clause”; “violate[s] the Fifth
10 Amendment to the extent [it is] unconstitutionally vague and violate[s] due process”; and
11 “violate[s] the Tenth Amendment because [it] impose[s] [a] coercive condition intended to
12 commandeer local officials into enforcing federal immigration practices and law.” *Id.* at *2.

13
14
15 (v.) *The CoC Verification Condition is unlawful*

16 576. Further, PRWORA does not authorize the CoC Verification Condition for at least
17 two reasons. First, PRWORA explicitly does *not* require states to have an immigration status
18 verification system until twenty-four months after the Attorney General promulgates certain final
19 regulations. 8 U.S.C. § 1642(b). Those regulations must, among other things, establish procedures
20 by which states and local governments may verify eligibility and procedures for applicants to prove
21 citizenship “in a fair and nondiscriminatory manner.” *Id.* § 1642(b)(ii), (iii). The Attorney General
22 has issued interim guidance and a proposed verification rule, but never implemented a final rule.
23 *See* Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under
24 Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed.
25 Reg. 61344 (Nov. 17, 1997); Verification of Eligibility for Public Benefits, 63 Fed. Reg. 41662
26

1 (Aug. 4, 1998) (proposed rule). This failure to promulgate a final regulation left in place DOJ's
2 Interim Guidance, which requires only the examination of identity and immigration
3 documentation. 62 Fed. Reg. at 61348–49. Absent implementing regulations, CoC Plaintiffs are
4 not required to verify participants' immigration status using SAVE or an equivalent verification
5 system. *See* 42 U.S.C. § 1320b-7. Requiring recipients to do so exceeds the authority created in
6 PRWORA.
7

8 577. Second, SAVE is a database operated by the U.S. Department of Homeland
9 Security, acting through U.S. Citizenship and Immigration Services, that is sometimes used to
10 assist federal immigration enforcement actions. The CoC Verification Condition would require
11 CoC Plaintiffs to gain access to this system, train their own employees how to use the system, and
12 require them to enter immigration information. Such an effort to commandeer local resources for
13 matters related to federal immigration enforcement is counter to federal law, as well as applicable
14 local and state laws precluding local participation in federal immigration enforcement.
15

16 (vi.) *The CoC Gender Ideology Condition is unlawful*

17 578. The CoC Gender Ideology Condition improperly seeks to force federal grant
18 recipients to no longer recognize transgender, gender diverse, and intersex people by restricting
19 funding that promotes “gender ideology.” This violates HUD’s own regulations, which mandate
20 “equal access” to CoC “programs, shelters, other buildings and facilities, benefits, services, and
21 accommodations is provided to an individual in accordance with the individual’s gender identity,
22 and in a manner that affords equal access to the individual’s family,” including facilities with
23 “shared sleeping quarters or shared bathing facilities.” 24 C.F.R. § 5.106(b)–(c). HUD regulations
24 also prohibit subjecting an individual “to intrusive questioning or” asking individuals “to provide
25 anatomical information or documentary, physical, or medical evidence of the individual’s gender
26

1 identity.” *Id.* § 5.106(b)(3). While Defendant Turner announced HUD will no longer enforce these
2 regulations, the regulations remain in effect and applicable to the CoC program.

3 579. The CoC Gender Ideology Condition is also vague. The definition of “gender
4 ideology” is not only demeaning, but also idiosyncratic and unscientific. Further, given the
5 expansive meaning of “promote,” federal agencies have free rein to punish recipients who merely
6 collect information on gender identity, which has long been authorized and encouraged by HUD
7 in its binding regulations, as such information can be used to improve the quality and efficacy of
8 homeless services.
9

10 580. The Trump Administration has already terminated federal funding as a result of
11 agency action carrying out the Gender Ideology Order and related executive orders. For example,
12 one of the largest free and reduced-cost healthcare providers in Los Angeles reported that the U.S.
13 Centers for Disease Control and Prevention (CDC) terminated a \$1.6 million grant that would have
14 supported the clinic’s transgender health and social health services program. The CDC ended the
15 grant in order to comply with the Gender Ideology Order. *See* Kristen Hwang, *LA clinics lose*
16 *funding for transgender health care as Trump executive orders take hold*, Cal Matters (Feb. 4,
17 2025), <https://calmatters.org/health/2025/02/trump-executive-order-transgender-health/>.
18

19 581. On February 28, 2025, this Court enjoined enforcement of the Gender Ideology
20 Order in part (including parts the Gender Ideology Condition incorporates by references), holding
21 that the plaintiffs had shown a likelihood of success on their claims that the Order violates the Fifth
22 Amendment’s guarantee of equal protection and the separation of powers. *Wash. v. Trump*, 2:25-
23 CV-00244-LK, 2025 WL 659057, at *11–17, *24–25 (W.D. Wash. Feb. 28, 2025). Particularly
24 relevant here, the Court ruled that the plaintiffs were likely to succeed in showing that “[b]y
25 attaching conditions to federal funding that were . . . unauthorized by Congress,” subsections 3(e)
26

1 and (g) of the Gender Ideology Order “usurp Congress’s spending, appropriation, and legislative
2 powers.” *Id.* at *11. The Court explained that the Gender Ideology Order “reflects a ‘bare desire
3 to harm a politically unpopular group’” by “deny[ing] and denigrat[ing] the very existence of
4 transgender people.” *Id.* at *24 (citation omitted).

5
6 (vii.) *The CoC Abortion Condition is unlawful*

7 582. The CoC Abortion Condition (including the Abortion Order incorporated by
8 reference) does not implement, but rather exceeds, the Hyde Amendment’s narrow prohibition on
9 using federal funds to pay for, or require others to perform or facilitate, abortions. While it purports
10 to apply the Hyde Amendment—a provision that has been enacted in successive appropriations
11 acts that limits the use of federal funds for abortions (subject to narrow exceptions)—in reality it
12 goes well beyond the Hyde Amendment. The Hyde Amendment to the 2024 Appropriations Act
13 specifically and narrowly prohibits the use of appropriated funds to “require any person to perform,
14 or facilitate in any way the performance of, any abortion” or to “pay for an abortion, except where
15 the life of the mother would be endangered if the fetus were carried to term, or in the case of rape
16 or incest.” Pub. L. 118-42, §§ 202, 203, 138 Stat. 25 (March 9, 2024). But the Hyde Amendment
17 to the 2024 Appropriations Act does not require grant recipients to refrain from “*promot[ing]*
18 abortion”—a vague prohibition that is susceptible to arbitrary enforcement. And in doing so, the
19 Abortion Condition usurps Congress’s spending, appropriations, and legislative power.
20

21
22 583. In sum and as further explained below, HUD’s imposition of the CoC Grant
23 Conditions violates the Separation of Powers, the Spending Clause, the Fifth Amendment’s void-
24 for-vagueness doctrine, and the APA.
25
26
27

b.) HUD issues new policy terms for all financial assistance incorporating the unlawful conditions

584. In or around April 2025, HUD amended its General Administrative, National, and Departmental Policy Requirements and Terms for HUD’s Financial Assistance Programs (the “HUD Policy Terms”), which set forth “various laws and policies that may apply to recipients of” HUD grant awards. This document is posted on HUD’s website at <https://www.hud.gov/sites/default/files/CFO/documents/Administrative-Requirements-Addendum-FY2025.pdf>. Among such potentially applicable policies, the document lists several of President Trump’s executive orders as well as language materially the same as the CoC Grant Conditions.

585. For example, in a section labelled “Compliance with Immigration Requirements,” the HUD Policy Terms list the Immigration Order and summarize the potentially applicable policy in materially identical language as the CoC Verification Condition:

The recipient must administer its award in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under [PRWORA] and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, Executive Order 14218, or other Executive Orders or immigration laws.

.....

Subject to the exceptions provided by PRWORA, the recipient must use SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.

586. In the same section, the HUD Policy Terms include a policy substantially identical to the CoC Enforcement Condition:

1 No state or unit of general local government that receives HUD
2 funding under may use that funding in a manner that by design or
3 effect facilitates the subsidization or promotion of illegal
4 immigration or abets policies that seek to shield illegal aliens from
5 deportation.

6 587. Next, in a section labelled “Other Presidential Executive Actions Affecting Federal
7 Financial Assistance Programs,” HUD Policy Terms state that “Recipients of Federal Awards *must*
8 comply with applicable existing and future Executive Orders, as advised by the Department,
9 including but not limited to . . . :” (emphasis added), followed by a “non-exhaustive list” of nine
10 executive orders—including the Immigration Order, the Abortion Order, the DEI Order, and the
11 Gender Ideology Order—as “applicable” conditions.

12 588. The HUD Policy Terms then summarize the potentially applicable policies
13 reflected in those executive orders in language materially similar to several CoC Grant Conditions:

- 14 a. First, the HUD Policy Terms state that the Immigration Order “prohibits taxpayer
15 resources and benefits from going to unqualified aliens.”
- 16 b. Second, the HUD Policy Terms summarize the Abortion Order as “prohibit[ing]
17 the use of Federal taxpayer dollars to fund or promote elective abortion.”
- 18 c. Third, the HUD Policy Terms state that the DEI Order “requires Federal agencies
19 to terminate all discriminatory and illegal preferences.”
- 20 d. Fourth, the HUD Policy Terms summary the Gender Ideology Order as “set[ting]
21 forth U.S. policy recognizing two sexes, male and female.”
22

23 589. These requirements outlined in the HUD Policy Terms are unlawful for the same
24 reasons the nearly identical CoC Grant Conditions are unlawful, as explained above. In particular,
25 and as explained further below, the requirements violate the Separation of Powers, the Spending
26 Clause, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

1 **c.) HUD attaches a new, unlawful anti-DEI certification to its**
2 **standard assurances and certifications**

3 590. In or around May 2025, HUD updated its standard Applicant and Recipient
4 Assurances and Certifications (the “HUD Certifications”) on Form HUD-424-B, which must be
5 submitted as part of any application for HUD funding or post-award submission. These changes
6 implemented President Trump’s executive orders, including the DEI Order, by imposing a new
7 anti-DEI certification that is not authorized by any of the statutes that establish HUD grant
8 programs, any appropriations law appropriating funds for HUD grant programs, or HUD’s own
9 regulations. In particular, the HUD Certifications require HUD grant applicants to certify that the
10 applicant:
11

12 Will not use Federal funding to promote diversity, equity, and
13 inclusion (DEI) mandates, policies, programs, or activities that
14 violate any applicable Federal antidiscrimination laws.

15 591. This certification is unlawful for the same reasons as the nearly identical CoC DEI
16 Condition. In particular, and as explained further below, the anti-DEI certification violates the
17 Separation of Powers, the Spending Clause, the Fifth Amendment’s void-for-vagueness doctrine,
18 and the APA.

19 **d.) HUD announces it will attach new, unlawful conditions to Office**
20 **of Community Planning and Development grants**

21 592. In or around June 2025, HUD’s Office of Community Planning and Development
22 (CPD), which administers the CoC, CDBG, ESG, HOME, and HOPWA programs, among others,
23 issued guidance announcing that it will attach new conditions substantially identical to the CoC
24 Grant Conditions to Fiscal Year 2025 agreements governing all CPD-administered grants.

25 593. In particular, on June 5, 2025, CPD General Deputy Assistant Secretary Claudette
26 Fernandez issued a letter to the executive directors of two organizations representing states and

1 local jurisdictions that administer CPD grant programs (the “Fernandez Letter”). The Fernandez
2 Letter states that CPD “[g]rantees are . . . encouraged to review the White House Executive Orders
3 as they develop their consolidated plan and annual action plans,” which are required under the
4 CDBG, HOME, HOPWA, and ESG programs. Letter from Claudette Fernandez, Acting Director,
5 CPD General Deputy Assistant Secretary, to Council of State Community Development Agencies
6 and National Community Development Association (June 5, 2025), [https://ncdaonline.org/wp-](https://ncdaonline.org/wp-content/uploads/2025/06/6-5-2025-HUD-Response-to-COSCA-NCDA.pdf)
7 [content/uploads/2025/06/6-5-2025-HUD-Response-to-COSCA-NCDA.pdf](https://ncdaonline.org/wp-content/uploads/2025/06/6-5-2025-HUD-Response-to-COSCA-NCDA.pdf).

9 594. The Fernandez Letter goes on to state that “FY2025 grant agreement[s]” that are
10 issued after a recipient submits their consolidated and action plans will “emphasize conformity
11 with applicable Administration priorities and executive orders.” It clarifies that, “[u]nder the FY
12 2025 grant agreement, conformity means” that the recipient will be required to abide by a list of
13 specific conditions. These include the following (collectively, the “CPD Grant Conditions”):

15 595. First, grant recipients will be required to agree not to “not use grant funds to
16 promote ‘gender ideology,’ as defined in [the Gender Ideology Order]” (the “CPD Gender
17 Ideology Condition”).

18 596. Second, each recipient must “certif[y] that it does not operate any programs that
19 violate any applicable Federal antidiscrimination laws, including Title VI of the Civil Rights Act
20 of 1964.” Each recipient must also “agree[] that its compliance in all respects with all applicable
21 Federal anti-discrimination laws is material to the U.S. Government’s payment decisions for
22 purposes of [the FCA]” (together, the “CPD Discrimination Condition”).

24 597. Third, grant recipients must agree that:

25 [i]f applicable, no state or unit of general local government that
26 receives funding under this grant may use that funding in a manner
27 that by design or effect facilitates the subsidization or promotion of

1 illegal immigration or abets policies that seek to shield illegal aliens
2 from deportation.

3 (the “CPD Enforcement Condition”).

4 598. Fourth, each recipient must agree to conditions purportedly related to PRWORA
5 and other immigration eligibility and verification requirements, specifically:

6 The Grantee must administer its grant in accordance with all
7 applicable immigration restrictions and requirements, including the
8 eligibility and verification requirements that apply under title IV of
9 the Personal Responsibility and Work Opportunity Reconciliation
10 Act of 1996, as amended (8 U.S.C. 1601-1646) (PRWORA) and any
11 applicable requirements that HUD, the Attorney General, or the U.S.
Citizenship and Immigration Services may establish from time to
time to comply with PRWORA, Executive Order 14218, or other
Executive Orders or immigration laws.

12

13 Unless excepted by PRWORA, the Grantee must use SAVE, or an
14 equivalent verification system approved by the Federal government,
15 to prevent any Federal public benefit from being provided to an
ineligible alien who entered the United States illegally or is
otherwise unlawfully present in the United States.

16 (together, the “CPD Verification Condition”).

17 599. Fifth, “[u]nless excepted by PRWORA,” grant recipients “must use SAVE, or an
18 equivalent verification system approved by the Federal government, to prevent any Federal public
19 benefit from being provided to an ineligible alien who entered the United States illegally or is
20 otherwise unlawfully present in the United States.”

21 600. Finally, grant recipients must agree that they will “not use any grant funds to fund
22 or promote elective abortions, as required by [the Abortion Order]” (the “CPD Abortion
23 Condition”).
24

1 601. In addition to imposing these conditions through grant agreements, HUD is
2 threatening to disapprove consolidated plans—including plans that have already been submitted—
3 unless jurisdictions resubmit revised plans that (1) include assurances that the jurisdictions will
4 comply with the CPD Grant Conditions and (2) strip the plans of certain words that HUD claims,
5 in and of themselves, violate the related EOs, such as “equity” and “environmental justice.” HUD
6 is requiring these revisions and commitments with as little as 24 hours’ notice.
7

8 602. The CPD Grant Conditions are unlawful for the same reasons the nearly identical
9 CoC Grant Conditions are unlawful, as explained above. In particular, and as explained further
10 below, the CPD Grant Conditions violate the Separation of Powers, the Spending Clause, the Fifth
11 Amendment’s void-for-vagueness doctrine, and the APA.
12

13 **3. DOT and its Operating Administrations Attach New, Unlawful**
14 **Conditions to DOT Grants**

15 603. Since Secretary Duffy’s confirmation, DOT and its operating administrations have
16 implemented President Trump’s Executive Orders by attaching new and unlawful conditions
17 (collectively, the “DOT Grant Conditions”) across the expansive portfolio of DOT grants
18 established by Congress; demanding grant recipients’ agreement to those new conditions,
19 sometimes on very short timelines; and issuing agency-wide letters and statements about how DOT
20 will enforce those conditions.

21 604. As discussed above, the Duffy Letter issued to “all recipients” of DOT funding
22 announced DOT’s “policy” of imposing immigration enforcement and anti-DEI conditions on all
23 DOT-funded grants as a requirement of receiving funding. The Duffy Letter makes clear that DOT
24 interprets federal nondiscrimination law to presumptively prohibit “any policy, program, or
25 activity that is premised on a prohibited classification, including discriminatory policies or
26

1 practices designed to achieve so-called [DEI] goals.” It further asserts that recipients’ “legal
2 obligations require cooperation generally with Federal authorities in the enforcement of Federal
3 law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement
4 (ICE) and other Federal offices and components of the Department of Homeland Security in the
5 enforcement of Federal immigration law.”
6

7 605. Pursuant to the new policy set forth in the Duffy Letter, DOT and its operating
8 administrations have, in recent weeks, attached substantially similar conditions relating to
9 discrimination, immigration enforcement, and executive orders to all grant agreements.

10 **a.) DOT and the FTA attach new, unlawful conditions to FTA**
11 **Grants**

12 606. For instance, on March 26, 2025, the FTA issued an updated Master Agreement
13 applicable to all funding awards authorized under specified federal statutes, including the four
14 FTA grant programs discussed above.

15 607. The March 26 Master Agreement imposed a new condition on all FTA grants
16 implementing President Trump’s directive, as set out in the DEI Order, to condition federal grant
17 funds on recipients’ agreement not to promote DEI and to concede this requirement is material for
18 purposes of the FCA (“FTA Discrimination Condition”). While FTA grants have long required
19 compliance with nondiscrimination laws and have been subject to the FCA, the March 26 Master
20 Agreement provided:
21

22 (1) Pursuant to section (3)(b)(iv)(A), Executive Order 14173,
23 Ending Illegal Discrimination and Restoring Merit-Based
24 Opportunity, the Recipient agrees that its compliance in all respects
25 with all applicable Federal antidiscrimination laws is material to the
26 government’s payment decisions for purposes of [the FCA].

26 (2) Pursuant to section (3)(b)(iv)(B), Executive Order 14173,
27 Ending Illegal Discrimination and Restoring Merit-Based

1 Opportunity, by entering into this Agreement, the Recipient certifies
2 that it does not operate any programs promoting diversity, equity,
3 and inclusion (DEI) initiatives that violate any applicable Federal
anti-discrimination laws.

4 608. That the FTA plans to enforce these new conditions more broadly than current
5 nondiscrimination law is reinforced by the March 26 Master Agreement’s requirement that the
6 recipient “comply with other applicable federal nondiscrimination laws, regulations, and
7 requirements, and follow *federal guidance prohibiting discrimination*.”

8 609. The FTA Discrimination Condition is in apparent tension with other requirements
9 in the March 26 Master Agreement. For example, the March 26 Master Agreement requires
10 compliance with 2 C.F.R. § 300.321, which states, “[w]hen possible, the recipient or subrecipient
11 should ensure that small businesses, minority businesses, women’s business enterprises, veteran-
12 owned businesses, and labor surplus area firms” are, *inter alia*, “included on solicitation lists” and
13 “solicited” when “deemed eligible.”

14 610. The FTA Discrimination Condition is also in apparent tension with DOT’s own
15 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior
16 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
17 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
18 under any program or activity . . . the applicant or recipient must take affirmative action to remove
19 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).

20 611. Further, the March 26 Master Agreement defined “Federal Requirement” to include
21 “[a]n applicable federal law, regulation, or *executive order*” (the “FTA EO Condition”). The
22 March 26 Master Agreement refers to President Trump’s DEI Order as an executive order
23 “pursuant to” which the recipient must comply and certify, with no explanation of how the DEI
24
25
26

1 Order relates to funding of mass transit.

2 612. The Duffy Letter to all recipients of DOT grants (including the FTA grants) further
3 addresses the broad scope of the Administration’s anti-DEI agenda and how it expands and
4 conflicts with established interpretations of federal nondiscrimination law, taking the position that
5 any policy, program, or activity “designed to achieve so-called [DEI] goals”—even if “described
6 in neutral terms”—“presumptively” violates federal nondiscrimination laws. The Duffy Letter also
7 threatens “vigorous[] enforcement,” ranging from comprehensive audits, claw-back of grant funds,
8 and termination of grant awards to enforcement actions and loss of any future federal funding from
9 DOT.
10

11 613. On April 25, 2025, the FTA issued another updated Master Agreement applicable
12 to all funding awards authorized under specified federal statutes, including the four FTA grant
13 programs discussed above.
14

15 614. The April 25 Master Agreement (“FTA Master Agreement”) contains the same
16 FTA Discrimination Condition and the same FTA EO Condition set forth above. But the FTA
17 Master Agreement contains an additional condition requiring recipients to cooperate with federal
18 immigration enforcement efforts (the “FTA Enforcement Condition”).
19

20 615. In particular, the FTA Enforcement Condition amends an existing provision
21 addressing free speech and religious liberty as follows (new language emphasized):

22 The Recipient shall ensure that Federal funding is expended in full
23 accordance with the U.S. Constitution, Federal Law, and statutory
24 and public policy requirements: including, but not limited to, those
25 protecting free speech, religious liberty, public welfare, the
26 environment, and prohibiting discrimination; *and the Recipient will
cooperate with Federal officials in the enforcement of Federal law,
including cooperating with and not impeding U.S. Immigration and
Customs Enforcement (ICE) and other Federal offices and
components of the Department of Homeland Security in the*

1 *enforcement of Federal immigration law.*

2 616. The Duffy Letter to all recipients of DOT grants (including the FTA grants) states
3 that “DOT expects its recipients to comply with Federal law enforcement directives and to
4 cooperate with Federal officials in the enforcement of Federal immigration law” and that
5 “[d]eclining to cooperate with the enforcement of Federal immigration law or otherwise taking
6 action intended to shield illegal aliens from ICE detection contravenes Federal law and may give
7 rise to civil and criminal liability.”

8
9 617. In May 2025, following this Court’s issuance of a temporary restraining order
10 enjoining the FTA from enforcing the FTA Discrimination Condition, the FTA EO Condition, or
11 the FTA Enforcement Condition against King County, King County learned that the FTA had
12 retroactively applied the April 2025 FTA Master Agreement to grants that were executed pursuant
13 to earlier versions of the agreement. By substituting those earlier agreements with the FTA Master
14 Agreement, the FTA purported to unilaterally add new substantive conditions to previously
15 awarded grants without notifying King County.
16

17 618. Neither the statutory provisions creating the FTA grants, the relevant
18 appropriations acts, nor any other legislation authorizes the FTA to condition these funds on the
19 recipient’s certification that it does not “promote DEI,” its admission that its compliance with this
20 prohibition is material for purposes of the FCA, or its agreement to “cooperate” with federal
21 immigration enforcement efforts. Federal grant recipients must comply with nondiscrimination
22 and other federal laws. But executive orders and letters from agency heads cannot change what
23 these laws require under existing court decisions.
24

25 619. In sum and as further explained below, the FTA Discrimination Condition, the FTA
26 EO Condition, and the FTA Enforcement Condition (collectively, the “FTA Grant Conditions”)

1 violate the Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-
2 commandeering principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

3 **b.) DOT and the FHWA attach new, unlawful conditions to FHWA**
4 **Grants**

5 620. On March 17, 2025, DOT issued revised General Terms and Conditions applicable
6 to Fiscal Year 2024 SS4A grants (“FY 2024 SS4A General Terms and Conditions”).

7 621. The FY 2024 SS4A General Terms and Conditions imposed a new condition on all
8 Fiscal Year 2024 SS4A grants implementing President Trump’s directive, as set out in the DEI
9 Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede
10 this requirement is material for purposes of the FCA (“SS4A Discrimination Condition”). While
11 SS4A grants have long required compliance with nondiscrimination laws and have been subject to
12 the FCA, the FY 2024 SS4A General Terms and Conditions provided:

14 (b) Pursuant to Executive Order 14173, *Ending Illegal*
15 *Discrimination and Restoring Merit-Based Opportunity*, the
16 Recipient agrees that its compliance in all respects with all
17 applicable Federal anti-discrimination laws is material to the
18 government’s payment decisions for purposes of [the FCA].

19 (c) Pursuant to Executive Order 14173, *Ending Illegal*
20 *Discrimination and Restoring Merit-Based Opportunity*, by entering
21 into this agreement, the Recipient certifies that it does not operate
22 any programs promoting diversity, equity, and inclusion (DEI)
23 initiatives that violate any applicable Federal anti-discrimination
24 law.

25 622. The SS4A Discrimination Condition is in apparent tension with other requirements
26 in the FY 2024 SS4A General Terms and Conditions. For example, the FY 2024 SS4A General
27 Terms and Conditions require compliance with 2 C.F.R. § 300.321, which states, “[w]hen possible,
the recipient or subrecipient should ensure that small businesses, minority businesses, women’s
business enterprises, veteran-owned businesses, and labor surplus area firms” are, *inter alia*,

1 “included on solicitation lists” and “solicited” when “deemed eligible.”

2 623. The SS4A Discrimination Condition is also in apparent tension with DOT’s own
3 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior
4 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
5 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
6 under any program or activity . . . the applicant or recipient must take affirmative action to remove
7 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).
8

9 624. The FY 2024 SS4A General Terms and Conditions contain an additional condition
10 requiring recipients to cooperate with federal immigration enforcement efforts (the “SS4A
11 Enforcement Condition”).
12

13 625. In particular, the SS4A Enforcement Condition amends a pre-existing provision
14 addressing free speech and religious liberty as follows (new language emphasized):

15 The Recipient shall ensure that Federal funding is expended in full
16 accordance with the United States Constitution, Federal law, and
17 statutory and public policy requirements: including but not limited
18 to, those protecting free speech, religious liberty, public welfare, the
19 environment, and prohibiting discrimination; *and Recipient will*
20 *cooperate with Federal officials in the enforcement of Federal law,*
including cooperating with and not impeding U.S. Immigration and
Customs Enforcement (ICE) and other Federal offices and
components of the Department of Homeland Security in the
enforcement of Federal immigration law.

21 626. Exhibit A to the FY 2024 SS4A General Terms and Conditions also requires the
22 recipient to assure and certify that it will “comply with all applicable Federal laws, regulations,
23 executive orders, policies, guidelines, and requirements as they relate to the application,
24 acceptance, and use of Federal funds for this Project” (the “SS4A EO Condition”). While this
25 requirement existed in a similar form in prior agreements, Exhibit A to the FY 2024 SS4A General
26

1 Terms and Conditions lists President Trump’s DEI Order and Gender Ideology Order (among other
2 recent Trump Administration executive orders), as well as two criminal immigration statutes (8
3 U.S.C. § 1324 and 8 U.S.C. § 1327) as “provisions” purportedly “applicable” to SS4A grant
4 agreements, with no explanation of how those Orders or statutes relate to roadway grants or even
5 apply to local governments.
6

7 627. Also on March 17, 2025, DOT issued revised General Terms and Conditions
8 applicable to Fiscal Year 2023 SS4A grants and to Fiscal Year 2022 SS4A grants. Those revised
9 General Terms and Conditions, and the revised Exhibit A to each, contain provisions identical to
10 the SS4A Discrimination Condition, the SS4A Immigration Condition, and the SS4A EO
11 Condition discussed above.
12

13 628. On April 22, 2025, the FHWA issued Competitive Grant Program General Terms
14 and Conditions purportedly applicable to all FHWA competitive grants (“2025 FHWA General
15 Terms and Conditions”).
16

17 629. The 2025 FHWA General Terms and Conditions imposed a new condition on all
18 FHWA competitive grants (including the BIP, Culvert AOP Program, and ATTAIN program
19 discussed above) implementing President Trump’s directive, as set out in the DEI Order and
20 further explained in the Duffy letter, to condition federal grant funds on recipients’ agreement not
21 to promote DEI and to concede this requirement is material for purposes of the FCA (“FHWA
22 Discrimination Condition”). While FHWA grants have long required compliance with
23 nondiscrimination laws and have been subject to the FCA, the 2025 FHWA General Terms and
24 Conditions provide:
25

26 (b) Pursuant to Section (3)(b)(iv)(A), Executive Order 14173,
Ending Illegal Discrimination and Restoring Merit-Based
27 Opportunity, the Recipient agrees that its compliance in all respects

1 with all applicable Federal anti-discrimination laws is material to the
2 government’s payment decisions for purposes of [the FCA].

3 (c) Pursuant to Section (3)(b)(iv)(B), Executive Order 14173,
4 Ending Illegal Discrimination and Restoring Merit-Based
5 Opportunity, by entering into this agreement, the Recipient certifies
6 that it does not operate any programs promoting diversity, equity,
7 and inclusion (DEI) initiatives that violate any applicable Federal
8 anti-discrimination laws.

9 630. The 2025 FHWA General Terms and Conditions contain an additional condition
10 requiring recipients to cooperate with federal immigration enforcement efforts (the “FHWA
11 Enforcement Condition”).

12 631. In particular, the FHWA Enforcement Condition incorporates immigration
13 enforcement into a provision addressing compliance with federal law and policy as follows
14 (immigration enforcement language emphasized):

15 The Recipient shall ensure that Federal funding is expended in full
16 accordance with the United States Constitution, Federal law, and
17 statutory and public policy requirements: including but not limited
18 to, those protecting free speech, religious liberty, public welfare, the
19 environment, and prohibiting discrimination; *and the Recipient will
20 cooperate with Federal officials in the enforcement of Federal law,
21 including cooperating with and not impeding U.S. Immigration and
22 Customs Enforcement (ICE) and other Federal offices and
23 components of the Department of Homeland Security in the
24 enforcement of Federal immigration law.*

25 632. The Exhibits to the 2025 FHWA General Terms and Conditions—dated April 30,
26 2025 and applicable to FHWA competitive grants—further require the recipient to assure and
27 certify that it will “comply with all applicable Federal laws, regulations, executive orders, policies,
guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds
for this Project” (the “FHWA EO Condition”). The Exhibits list President Trump’s DEI Order and
Gender Ideology Order (among other recent Trump Administration executive orders), as well as

1 two criminal immigration statutes (8 U.S.C. § 1324 and 8 U.S.C. § 1327), as “provisions”
2 purportedly “applicable” to FHWA competitive grant agreements, with no explanation of how
3 those Orders or statutes relate to highway grants or even apply to local governments.

4 633. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
5 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
6 grants (including the FHWA grants).

7
8 634. Neither the statutory provisions creating the FHWA grants, the relevant
9 appropriations acts, nor any other legislation authorizes the FHWA or DOT to condition these
10 funds on the recipient’s certification that it does not “promote DEI,” its admission that its
11 compliance with this prohibition is material for purposes of the FCA, or its agreement to
12 “cooperate” with federal immigration enforcement efforts. Federal grant recipients must comply
13 with nondiscrimination and other federal laws. But executive orders and letters from agency heads
14 cannot change what these laws require under existing court decisions.

15
16 635. In sum and as further explained below, the SS4A Discrimination Condition, the
17 SS4A Enforcement Condition, the SS4A EO Condition, the FHWA Discrimination Condition, the
18 FHWA Enforcement Condition, and the FHWA EO Condition (collectively, the “FHWA Grant
19 Conditions”) violate the Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-
20 commandeering principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

21
22 ***c.) DOT and the FAA attach new, unlawful conditions to FAA
Grants***

23 636. Implementing the Duffy Letter and the Trump Administration Executive Orders,
24 on April 25, 2025, the FAA issued a proposal labeled “Notice of modification of Airport
25 Improvement Program grant assurances; opportunity to comment,” providing notice and soliciting
26

1 public comments on modifications to the Grant Assurances (“2025 FAA Grant Assurances”). In
2 its notice, the FAA stated that the 2025 FAA Grant Assurances would become effective
3 immediately notwithstanding the opportunity to comment.

4 637. The 2025 FAA Grant Assurances require the sponsor to assure and certify that it
5 will “comply with all applicable Federal laws, regulations, executive orders, policies, guidelines,
6 and requirements as they relate to the application, acceptance, and use of Federal funds for this
7 Grant.” While this requirement existed in a similar form in prior versions of the Grant Assurances,
8 the 2025 FAA Grant Assurances list President Trump’s DEI Order and Gender Ideology Order
9 (among other recent Trump Administration executive orders), and incorporates all other executive
10 orders, including the Immigration Order, as “provisions” purportedly “applicable” to grant
11 agreements, even though these Orders on their face do not apply to non-federal entities and do not
12 relate to funding of airport development or infrastructure. Congress has not directed or authorized
13 that the DEI Order, Gender Ideology Order, or Immigration Order be imposed as Grant
14 Assurances.

15 638. Implementing the Duffy Letter and the Trump administration Executive Orders, on
16 May 6, 2025, FAA posted on its website a revised grant agreement template for 2025 for AIG
17 grants with added terms and conditions that did not appear in prior iterations of FAA grant
18 agreements (“FY 2025 FAA AIG Grant Template”). The FY 2025 FAA AIG Grant Template has
19 not been circulated for comment, as is statutorily required for changes to Grant Assurances.

20 639. The FY 2025 FAA AIG Grant Template imposes a new condition on all AIG grants
21 that implements President Trump’s directive, as set out in the DEI Order, to condition federal grant
22 funds on recipients’ agreement not to promote DEI and to concede that this requirement is material
23 for purposes of the FCA (the “FAA Discrimination Condition”). While FAA grants have long

1 required compliance with nondiscrimination laws and have been subject to the FCA, the FY 2025
2 FAA AIG Grant Template provides:

3 Pursuant to Section (3)(b)(iv), Executive Order 14173, *Ending*
4 *Illegal Discrimination and Restoring Merit-Based Opportunity*, the
5 sponsor:

6 a. Agrees that its compliance in all respects with all applicable
7 Federal anti-discrimination laws is material to the government’s
8 payment decisions for purposes of [the FCA]; and

9 b. certifies that it does not operate any programs promoting
10 diversity, equity, and inclusion (DEI) initiatives that violate any
11 applicable Federal anti-discrimination laws.

12 640. The FAA Discrimination Condition is in apparent tension with statutorily required
13 Grant Assurances imposed on sponsors with respect to FAA grant funds. For example, one of the
14 statutorily required Grant Assurances sponsors must make for airport development grants is that
15 the airport sponsor will take necessary action to ensure, to the maximum extent possible, that at
16 least 10 percent of all businesses at the airport selling consumer products or providing consumer
17 services to the public are small business concerns owned and controlled by “a socially and
18 economically disadvantaged individual” or other small business concerns in historically
19 underutilized business zones. 49 U.S.C. § 47107(e)(1). “Socially and economically disadvantaged
20 individual” is defined to include “Black Americans, Hispanic Americans, Native Americans,
21 Asian Pacific Americans, and other minorities,” as well as women. 49 U.S.C. § 47113(a)(2); 15
22 U.S.C. § 637(d).

23 641. The FAA Discrimination Condition is also in apparent tension with DOT’s own
24 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior
25 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
26 individuals from participation in, to deny them the benefits of, or to subject them to discrimination

1 under any program or activity . . . the applicant or recipient must take affirmative action to remove
2 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7). And
3 the FAA Discrimination Condition is in tension with other provisions of the FY 2025 FAA AIG
4 Grant Template. For example, the FY 2025 FAA AIG Grant Template states that the “sponsor’s
5 [Disadvantaged Business Enterprise] and [Airport Concession Disadvantaged Business
6 Enterprise] programs as required by 49 C.F.R. Parts 26 and 23, and as approved by DOT, are
7 incorporated by reference in this agreement.” But 49 C.F.R. 23.25(e), for instance, requires the use
8 of “race-conscious measures” in implementing the Airport Concession Disadvantaged Business
9 Enterprise program when race-neutral measures, standing alone, are not projected to be sufficient
10 to meet an overall goal, and sets forth examples of race-conscious measures airports can
11 implement.
12

13
14 642. The FY 2025 FAA AIG Grant Template contains an additional condition requiring
15 sponsors to cooperate with enforcement of any federal law, including federal immigration
16 enforcement efforts (the “FAA Enforcement Condition”).

17 643. In particular, the FAA Enforcement Condition incorporates immigration
18 enforcement into a provision addressing free speech and religious liberty as follows (immigration
19 enforcement language emphasized):
20

21 The Sponsor shall ensure that Federal funding is expended in full
22 accordance with the United States Constitution, Federal law, and
23 statutory and public policy requirements: including but not limited
24 to, those protecting free speech, religious liberty, public welfare, the
25 environment, and prohibiting discrimination; *and the Sponsor will*
26 *cooperate with Federal officials in the enforcement of Federal law,*
including cooperating with and not impeding U.S. Immigration and
Customs Enforcement (ICE) and other Federal offices and
components of the Department of Homeland Security in and the
enforcement of Federal immigration law.

1 644. The FY 2025 FAA AIG Grant Template further states with respect to immigration:
2 “Title 8 - U.S.C., Chapter 12, Subchapter II - Immigration. The sponsor will follow applicable
3 federal laws pertaining to Subchapter 12, and be subject to the penalties set forth in 8 U.S.C.
4 § 1324, Bringing in and harboring certain aliens, and 8 U.S.C. § 1327, Aiding or assisting certain
5 aliens to enter.” The FY 2025 FAA AIG Grant Template does not explain how those criminal
6 immigration statutes relate to airport grants or even apply to local governments.
7

8 645. The FY 2025 FAA AIG Grant Template also requires the sponsor to assure and
9 certify that it will “comply with all applicable Federal laws, regulations, executive orders, policies,
10 guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds
11 for this Grant” (the “FAA EO Condition”). While this requirement existed in a similar form in
12 prior agreements, the FY 2025 FAA AIG Grant Template lists President Trump’s DEI Order and
13 Gender Ideology Order (among other recent Trump Administration executive orders), and
14 incorporates all other executive orders, including the Immigration Order, as “provisions”
15 purportedly “applicable” to grant agreements, with no explanation of how those Orders relate to
16 funding of airport development or infrastructure.
17

18 646. The FY 2025 FAA AIG Grant Template also states that the “FAA may terminate
19 this agreement and all of its obligations under this agreement” in certain circumstances, including
20 if “FAA determines that termination of this agreement is in the public interest”; and further states
21 that “[i]n terminating this agreement under this section, the FAA may elect to consider only the
22 interests of the FAA” (the “FAA Termination Condition”). The FY 2025 FAA AIG Grant
23 Template does not define “the public interest” or “the interests of the FAA” that would support a
24 termination decision or expressly limit those interests to the funding of airport development or
25 infrastructure.
26

1 April 16, 2025, DOT and FRA issued revised General Terms and Conditions applicable to FRA
 2 discretionary grants, including the RCE Grant Program (“2025 FRA General Terms and
 3 Conditions”).⁴

4 652. The 2025 FRA General Terms and Conditions imposed a new condition on all
 5 Fiscal Year 2024 FRA discretionary grants implementing President Trump’s directive, as set out
 6 in the DEI Order, to condition federal grant funds on recipients’ agreement not to promote DEI
 7 and to concede this requirement is material for purposes of the FCA (“FRA Discrimination
 8 Condition”). While FRA grants have long required compliance with nondiscrimination laws and
 9 have been subject to the FCA, the 2025 FRA General Terms and Conditions provided:

11 (b) Pursuant to Section 3(b)(iv)(A) of Executive Order 14173, *Ending Illegal*
 12 *Discrimination and Restoring Merit-Based Opportunity*, the Recipient agrees that
 13 its compliance in all respects with all applicable Federal anti-discrimination laws is
 14 material to the government’s payment decisions for purposes of [the FCA].

15 (c) Pursuant to Section 3(b)(iv)(B) of Executive Order 14173, *Ending Illegal*
 16 *Discrimination and Restoring Merit-Based Opportunity*, by entering into this
 17 agreement, the Recipient certifies that it does not operate any programs promoting
 18 diversity, equity, and inclusion (DEI) initiatives that violate any
 19 applicable Federal anti-discrimination laws.

20 653. The FRA Discrimination Condition is in apparent tension with the goals of the RCE
 21 program as set forth by Congress. For example, one goal of the RCE program is “to reduce the
 22 impacts that freight movement and railroad operations may have on underserved communities.”
 23 49 U.S.C. § 22909(b)(3).

24 654. The FRA Discrimination Condition is also in apparent tension with DOT’s own
 25 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior

26 ⁴ The FRA’s website indicates that the 2025 FRA General Terms and Conditions were further
 27 revised on April 23, 2025, but the revision is not accessible. *See* <https://railroads.dot.gov/grants-loans/fra-discretionary-grant-agreements> (last accessed May 19, 2025).

1 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
2 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
3 under any program or activity . . . the applicant or recipient must take affirmative action to remove
4 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).

5
6 655. The FRA Discrimination Condition is also in tension with the RCE NOFO, issued
7 July 10, 2024, which identifies “Equity and Justice” as a priority against which proposed projects
8 would be assessed as part of the selection process.

9 656. The 2025 FRA General Terms and Conditions contain an additional condition
10 requiring recipients to cooperate with federal immigration enforcement efforts (the “FRA
11 Enforcement Condition”).

12 657. In particular, the FRA Enforcement Condition amends a pre-existing provision
13 addressing free speech and religious liberty as follows (new language emphasized):
14

15 The Recipient will ensure that Federal funding is expended in full accordance with the
16 United States Constitution, Federal law, and statutory and public policy requirements:
17 including but not limited to, those protecting free speech, religious liberty, public welfare,
18 the environment, and prohibiting discrimination *and the Recipient will cooperate*
19 *with Federal officials in the enforcement of Federal law, including cooperating with and*
not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices
and components of the Department of Homeland Security in the enforcement
of Federal immigration law.

20 658. The 2025 FRA General Terms and Conditions incorporate exhibits, which were
21 revised on April 16, 2025 and again on April 30, 2025. Exhibit A requires grantees to certify that
22 they will “comply with all applicable Federal laws, regulations, executive orders, policies,
23 guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds
24 for this Project” (the “FRA EO Condition”). While this requirement existed in a similar form in
25 prior versions of the Exhibit, the revised Exhibit (as of April 30, 2025) lists President Trump’s
26

1 DEI Order and Gender Ideology Order (among other recent Trump administration executive
2 orders), as well as two criminal immigration statutes (8 U.S.C. § 1324 and 8 U.S.C. § 1327) as
3 “provisions” purportedly “applicable” to grant agreements, with no explanation of how those
4 Orders and statutes relate to funding of railway improvements or even apply to local governments.
5

6 659. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
7 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
8 grants (including the FRA grants).

9 660. Neither the statutory provisions authorizing the FRA grants, the relevant
10 appropriations acts, nor any other legislation authorizes the FRA or DOT to condition these funds
11 on the recipient’s certification that it does not “promote DEI,” its admission that its compliance
12 with this prohibition is material for purposes of the FCA, or its agreement to “cooperate”
13 with federal immigration enforcement efforts. Federal grant recipients must comply with
14 nondiscrimination and other federal laws. But executive orders and letters from agency heads
15 cannot change what these laws require under existing court decisions.
16

17 661. In sum and as further explained below, the FRA Discrimination Condition, the FRA
18 Enforcement Condition, and the FRA EO Condition (collectively, the “FRA Grant Conditions”)
19 violate the Separation of Powers, the Spending Clause, Tenth Amendment’s anti-commandeering
20 principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.
21

22 *e.) DOT attaches new, unlawful conditions to SMART Grants*

23 662. Implementing the Duffy Letter and the Trump administration Executive Orders, on
24 May 9, 2025, DOT issued revised General Terms and Conditions applicable to DOT SMART
25 Grants (“2025 DOT SMART General Terms and Conditions”). The 2025 DOT SMART General
26 Terms and Conditions are incorporated into the grant agreement for FY 2024 SMART Grants.
27

1 663. The 2025 DOT SMART General Terms and Conditions imposed a new condition
2 on all FY 2024 SMART grants implementing President Trump’s directive, as set out in the DEI
3 Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede
4 this requirement is material for purposes of the FCA (“DOT SMART Discrimination Condition”).
5 While DOT grants have long required compliance with nondiscrimination laws and have been
6 subject to the FCA, the 2025 DOT SMART General Terms and Conditions provided:
7

8 (b) Pursuant to Executive Order 14173, *Ending Illegal*
9 *Discrimination and Restoring Merit-Based Opportunity*, the
10 Recipient agrees that its compliance in all respects with all
11 applicable Federal anti-discrimination laws is material to the
12 government’s payment decisions for purposes of [the FCA].

13 (c) Pursuant to Executive Order 14173, *Ending Illegal*
14 *Discrimination and Restoring Merit-Based Opportunity*, by entering
15 into this agreement, the Recipient certifies that it does not operate
16 any programs promoting diversity, equity, and inclusion (DEI)
17 initiatives that violate any applicable Federal anti-discrimination
18 laws.

19 664. The DOT SMART Discrimination Condition is in apparent tension with the goals
20 of the SMART Grant program as set forth by Congress, which required that the DOT Secretary
21 “shall give priority to” projects that would, among other things “promote a skilled workforce that
22 is inclusive of minority or disadvantaged groups.” 135 Stat. at 842.

23 665. The DOT SMART Discrimination Condition is also in apparent tension with
24 DOT’s own regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states,
25 “[w]here prior discriminatory practice or usage tends, on the grounds of race, color, or national
26 origin to exclude individuals from participation in, to deny them the benefits of, or to subject them
27 to discrimination under any program or activity . . . the applicant or recipient must take affirmative
28 action to remove or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R.
29 21.5(b)(7).

1 666. The 2025 DOT SMART General Terms and Conditions contain an additional
2 condition requiring recipients to cooperate with federal immigration enforcement efforts (the
3 “DOT SMART Enforcement Condition”).

4 667. In particular, the DOT SMART Enforcement Condition provides:

5 [T]he recipient will cooperate with Federal officials in the
6 enforcement of Federal law, including cooperating with and not
7 impeding U.S. Immigration and Customs Enforcement (ICE) and
8 other Federal offices and components of the Department of
Homeland Security in the enforcement of Federal immigration law.

9 668. The 2025 SMART General Terms and Conditions incorporate exhibits, which were
10 revised on May 9, 2025. Exhibit A requires grantees to certify that they will “comply with all
11 applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as
12 they relate to the application, acceptance, and use of Federal funds for this Project” (“DOT
13 SMART EO Condition”). While this requirement existed in a similar form in prior versions of the
14 Exhibit, the revised Exhibit lists President Trump’s DEI Order and Gender Ideology Order (among
15 other recent Trump administration executive orders), as well as two criminal immigration statutes
16 (8 U.S.C. § 1324 and 8 U.S.C. § 1327) as “provisions” purportedly “applicable” to grant
17 agreements, with no explanation of how those Orders or statutes relate to funding of advanced
18 smart community technologies and systems.

19 669. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
20 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
21 grants (including the DOT SMART Grants).

22 670. Neither the statutory provisions creating the DOT SMART Grants, the relevant
23 appropriations acts, nor any other legislation authorizes DOT to condition these funds on the
24 recipient’s certification that it does not “promote DEI,” its admission that its compliance with this

1 prohibition is material for purposes of the FCA, or its agreement to “cooperate”
2 with federal immigration enforcement efforts. Federal grant recipients must comply with
3 nondiscrimination and other federal laws. But executive orders and letters from agency heads
4 cannot change what these laws require under existing court decisions.
5

6 671. In sum and as further explained below, the DOT SMART Discrimination
7 Condition, the DOT SMART Enforcement Condition, and the DOT SMART EO Condition
8 (collectively, the “DOT SMART Grant Conditions”) violate the Separation of Powers, the
9 Spending Clause, Tenth Amendment’s anti-commandeering principle, the Fifth Amendment’s
10 void-for-vagueness doctrine, and the APA.

11 **4. HHS and its Operating Divisions and Agencies Attach New, Unlawful**
12 **Conditions to HHS Grants**

13 672. HHS and its operating divisions and agencies have implemented President Trump’s
14 Executive Orders by making changes to HHS policy and attaching new and unlawful conditions
15 (collectively, the “HHS Grant Conditions”) across the expansive portfolio of HHS grants
16 established by Congress and demanding grant recipients’ agreement to those new conditions.
17

18 673. For example, on April 16, 2025, HHS issued an updated HHS Grants Policy
19 Statement (2025 HHS GPS) applicable to discretionary grants that is “incorporated by reference
20 in the official Notice of Award (NoA) as a standard term and condition.” It applies to “awards and
21 award modifications that add funding made on or after April 16, 2025,” includes “supplements to
22 award, competing and non-competing continuations,” and applies to “all HHS recipients and the
23 requirements flow down to subrecipients.” The 2025 HHS GPS “is incorporated by reference as a
24 standard term and condition of awards.” The 2025 HHS GPS states that it does not apply to non-
25 discretionary awards, but that “HHS agencies have the discretion to apply certain parts of the GPS
26

1 to non-discretionary awards and other policies to” non-discretionary awards.⁵

2 674. The 2025 HHS GPS imposed a new condition on HHS grants implementing
3 President Trump’s directive, as set out in the DEI Order, to condition federal grant funds on
4 recipients’ agreement not to promote DEI and to concede this requirement is material for purposes
5 of the FCA (“HHS Discrimination Condition”). While HHS grants have long required compliance
6 with nondiscrimination laws and have been subject to the FCA, the 2025 HHS GPS states that in
7 addition to filing Form HHS 690 (Assurance of Compliance with federal nondiscrimination laws,
8 which was previously required under older versions of the GPS), “recipients must comply with all
9 applicable Federal anti-discrimination laws material to the government’s payment decisions for
10 purposes of 31 U.S.C. § 372(b)(4).” Further, the 2025 HHS GPS states that “By accepting the grant
11 award, recipients are certifying that . . . [t]hey do not, and will not during the term of this financial
12 assistance award, operate any programs that advance or promote DEI, DEIA, or discriminatory
13 equity ideology in violation of Federal anti-discrimination laws” For this purpose, the
14 following definitions apply:
15

- 16
- 17 (a) DEI means “diversity, equity, and inclusion.”
 - 18 (b) DEIA means “diversity, equity, inclusion, and accessibility.”
 - 19 (c) Discriminatory equity ideology has the meaning set forth in
20 Section 2(b) of Executive Order 14190 of January 29, 2025.
21
 - 22 (e) Federal anti-discrimination laws means Federal civil rights law
23 that protect individual Americans from discrimination on the basis
24 of race, color, sex, religion, and national origin.

25 675. In addition to these agency-wide conditions, several HHS operating divisions and
26 agencies have issued their own requirements. For example, CDC recently issued updated general
27 terms and conditions for both research and non-research awards. Those updated general terms and

⁵ The 2025 HHS GPS does not apply to NIH grant awards.

1 conditions incorporate the 2025 HHS GPS as applicable grants policy with which recipients must
2 comply.

3 676. SAMHSA recently issued updated general terms and conditions for discretionary
4 grants. Those updated general terms and conditions incorporate the 2025 HHS GPS as applicable
5 grants policy with which recipients must comply. Moreover, in April 2025, SAMHSA updated its
6 Notice of Funding Opportunity (NOFO) Application Guide to state that “[a]ll activities proposed
7 in your application and budget narrative must be in alignment with the current Executive Orders”
8 (the “SAMHSA EO Condition”) and that “[f]unds cannot be used to support or provide services,
9 either directly or indirectly, to removable or illegal aliens” (the “SAMHSA Immigration
10 Condition”).
11

12 677. ACF recently issued updated general terms and conditions applicable to grants
13 administered by ACF that expressly state that they apply to non-discretionary awards. ACF’s
14 updated general terms and conditions contain a provision materially the same as the HHS
15 Discrimination Condition described above:
16

17 *For new awards made on or after May 8, 2025, the following*
18 *is effective immediately:*

19 Recipients must comply with all applicable Federal anti-
20 discrimination laws material to the government’s payment
21 decisions for purposes of [the FCA].

22 (1) Definitions. As used in this clause –

23 (a) DEI means “diversity, equity, and inclusion.”

24 (b) DEIA means “diversity, equity, inclusion, and
25 accessibility.”

26 (c) Discriminatory equity ideology has the meaning
27 set forth in Section 2(b) of Executive Order 14190 of
January 29, 2025.

1
2 (e) Federal anti-discrimination laws means Federal
3 civil rights law that protect individual Americans
4 from discrimination on the basis of race, color, sex,
5 religion, and national origin.

6
7 (2) Grant award certification.

8 (a) By accepting the grant award, recipients are
9 certifying that:

10 (i) They do not, and will not during the term of this
11 financial assistance award, operate any programs that
12 advance or promote the following in violation of
13 Federal anti-discrimination laws: DEI, DEIA, or
14 discriminatory equity ideology.

15 678. ACF may impose unspecified additional conditions via “post-award action,”
16 “supplemental” terms and conditions, and “remarks and/or specific award conditions.”

17 679. On May 14, 2025, HRSA issued updated general terms and conditions applicable
18 to “all active awards.” The revised HRSA terms and conditions incorporate the 2025 HHS GPS as
19 applicable grants policy with which recipients must comply. They also contain the following
20 provision (the “HRSA Gender Ideology Condition”):

21 By accepting this award, including the obligation, expenditure, or
22 drawdown of award funds, recipients, whose programs, are covered
23 by Title IX certify as follows:

- 24 • Recipient is compliant with Title IX of the Education
25 Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et
26 seq., including the requirements set forth in [the Gender
27 Ideology Order], and Title VI of the Civil Rights Act of
1964, 42 U.S.C. §§ 2000d et seq., and Recipient will remain
compliant for the duration of the Agreement.
- The above requirements are conditions of payment that go
the essence of the Agreement and are therefore material
terms of the Agreement.
- Payments under the Agreement are predicated on
compliance with the above requirements, and therefore
Recipient is not eligible for funding under the Agreement or
to retain any funding under the Agreement absent

1 compliance with the above requirements.

- 2 • Recipient acknowledges that this certification reflects a
3 change in the government’s position regarding the
4 materiality of the foregoing requirements and therefore any
5 prior payment of similar claims does not reflect the
6 materiality of the foregoing requirements to this Agreement.
- 7 • Recipient acknowledges that a knowing false statement
8 relating to Recipient’s compliance with the above
9 requirements and/or eligibility for the Agreement may
10 subject Recipient to liability under the False Claims Act, 31
11 U.S.C. § 3729, and/or criminal liability, including under 18
12 U.S.C. §§ 287 and 1001.

13 It is not clear if HRSA’s assertion that compliance with Title IX (or any other nondiscrimination
14 law) purportedly now requires agreement to the Gender Ideology Order is shared by other HHS
15 operating divisions and agencies, or is implicitly imported into other operating divisions and
16 agencies’ conditions requiring compliance with nondiscrimination laws that do not expressly
17 contain this added gloss.

18 680. Meanwhile, on May 6, 2025, HHS sent a “Dear Colleague” letter to medical schools
19 receiving federal funds, providing “[HHS’s] current interpretation of federal law.” Regarding DEI,
20 the letter stated “some American educational institutions . . . have adopted race-conscious policies
21 under a broader umbrella of concepts known as ‘systemic and structural racism’ and ‘diversity,
22 equity, and inclusion’ (DEI) to incorporate race-based criteria into training and discipline,” and
23 “[a]dditionally, certain DEI programs may confer advantages or impose burdens based on
24 generalizations associated with racial identity, rather than evaluating individuals on their own
25 merits. Such programs can create a hostile environment, denying a student the ability to participate
26 fully in school life because of the student’s race.” The letter also warned that institutions “found
27 to be out of compliance with federal civil rights law may, consistent with applicable law, be subject
to investigation and measures to secure compliance with may, if unsuccessful, affect continued

1 eligibility for federal funding” and stated HHS would “prioritize investigations” of institutions
2 that, among other things, require DEI or diversity statements in connection with hiring. Letter from
3 Anthony F. Archeval, Acting Director, HHS Office for Civil Rights, to medical schools that
4 receive federal financial assistance (May 6, 2025), [https://www.hhs.gov/sites/default/files/
5 guidance-med-schools-dear-colleague-letter.pdf](https://www.hhs.gov/sites/default/files/guidance-med-schools-dear-colleague-letter.pdf).

6
7 681. In a May 14, 2025 statement to the Senate Committee on Health, Education, Labor,
8 and Pensions regarding President Trump’s FY 2026 budget, HHS Secretary Kennedy stated,
9 among other things, that HHS is “committed to restoring a tradition of gold-standard, evidence-
10 based science—not one driven by politicized DEI, gender ideology, nor sexual identity.” Secretary
11 Kennedy also stated that “NIH will no longer issue grants to promote radical gender ideology to
12 the detriment of America’s youth, or fund dangerous gain-of-function research, though related
13 research will continue consistent with Administration policy and oversight. Our Administration is
14 committed to eliminating radical gender ideologies that poison the minds of Americans.”
15 Statement by Robert F. Kennedy, Jr. on the President’s Fiscal Year 2026 Budget before Committee
16 on Health, Education, Labor, and Pensions (May 14, 2025),
17 [https://www.help.senate.gov/imo/media/doc/b1b74b8b-0612-8b5d-1904-
18 a50babcldeea/HELP%20Secretary%20Kennedy%20Testimony.pdf](https://www.help.senate.gov/imo/media/doc/b1b74b8b-0612-8b5d-1904-a50babcldeea/HELP%20Secretary%20Kennedy%20Testimony.pdf).

19
20
21 682. On July 3, 2025, ACF Acting Assistant Secretary Andrew Gradison issued a letter
22 to Children’s Bureau grant recipients suggesting that all DEI initiatives may violate federal
23 nondiscrimination law. The letter states: “The Secretary of HHS has determined that awards
24 supporting diversity, equity, and inclusion (DEI) do not meet a public purpose to the extent they
25 are inconsistent with the Department's policy of improving the health and well-being of all
26 Americans and may violate Federal civil rights law.” The letter “encourages” grant recipients to

1 “review all plans, services, strategies, and expenditures under these programs, including those
2 made by subrecipients or contractors, to ensure that they do not support DEI initiatives or any other
3 initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another
4 protected characteristic.” On or about the same date, OFA issued a similar letter to TANF grant
5 recipients.
6

7 683. Neither the statutory provisions creating the HHS grants described in this
8 Complaint, the relevant appropriations acts, nor any other legislation authorizes HHS, itself or
9 through its operating divisions and agencies, to condition these funds on the recipient’s
10 certification that it does not “promote” DEI or gender ideology or its admission that its compliance
11 with these prohibitions is material for purposes of the FCA. Nor are Plaintiffs aware of any statute
12 authorizing HHS, itself or through its operating divisions and agencies, to impose such conditions
13 on any other HHS grants that Plaintiffs have previously received, currently receive, or are
14 otherwise eligible to receive. Federal grant recipients must comply with nondiscrimination and
15 other federal laws. But executive orders and statements from agency heads cannot change what
16 these laws require under existing court decisions.
17

18 684. In sum and as further explained below, the HHS Grant Conditions violate the
19 Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-commandeering
20 principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.
21

22 **E. Plaintiffs with Pass-Through Grants Have a Reasonable Concern that the**
23 **Challenged Conditions Apply to Them**

24 685. Local government entities that receive federal grant funds may receive the funds
25 directly from a federal agency (as a direct recipient) or indirectly from a pass-through entity (as a
26 subrecipient). Where a pass-through entity (for example, a state) provides federal funds to a
27

1 subrecipient (for example, a city or county within the state), the pass-through entity is responsible
2 for ensuring the subrecipient complies with applicable federal requirements. *See* 2 C.F.R. §§
3 200.332(b)(2) (pass-through entity must provide to the subrecipient information regarding “[a]ll
4 requirements of the subaward, including requirements imposed by Federal statutes, regulations,
5 and the terms and conditions of the Federal award”), 200.332(e) (pass-through entity must
6 “[m]onitor the activities of a subrecipient as necessary to ensure that the subrecipient complies
7 with Federal statutes, regulations, and the terms and conditions of the subaward”); 2 C.F.R. Part
8 2400 (incorporating 2 C.F.R. Part 200 requirements with respect to federal awards made by HUD
9 to non-federal entities); 2 C.F.R. Part 1201 (same for DOT).

11 686. Consistent with 2 CFR § 200.332, the grant agreements and terms and conditions
12 at issue in this case incorporate applicable federal requirements against any subrecipients.

14 687. For example, the CoC Grant Agreements provide that the “Recipient must comply
15 with the applicable requirements in 2 CFR part 200, as may be amended from time to time.”

17 688. The FY 2024 SS4A General Terms and Conditions require that the recipient
18 “monitor activities under this award, including activities under subawards and contracts, to
19 ensure . . . that those activities comply with this agreement,” and state that “[i]f the Recipient
20 makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient
21 in compliance with 2 C.F.R. 200.332(e).” Exhibit A to the 2024 SS4A General Terms and
22 Conditions—which incorporates the DEI and Gender Ideology Orders and two criminal
23 immigration statutes as “applicable provisions” as discussed above—states that “[p]erformance
24 under this agreement shall be governed by and in compliance with the following requirements, as
25 applicable, to the type of organization of the Recipient and any applicable sub-recipients.” The
26 2025 FHWA General Terms and Conditions, the 2025 FRA General Terms and Conditions, and

1 the 2025 DOT SMART General Terms and Conditions, and the Exhibits thereto, as well as the
2 2025 FAA Grant Assurances and FY 2025 FAA AIG Grant Template, contain similar language.
3 And the FTA Master Agreement requires that grant recipients take measures to assure that “Third
4 Party Participants” (defined to include subrecipients) “comply with applicable federal laws,
5 regulations, and requirements, and follow applicable federal guidance, except as FTA determines
6 otherwise in writing.”
7

8 689. Similarly, the 2025 HHS GPS states that it “applies to subrecipients and
9 contractors.” Specifically, “[t]he terms and conditions of [HHS] awards flow down to subawards
10 and subrecipients unless a particular GPS policy or award term and condition specifically says
11 otherwise.” ACF’s updated general terms and conditions state that “[u]nless indicated
12 otherwise . . . the T&Cs of Federal awards flow down to subrecipients and to contractors (when
13 applicable) as described in 45 CFR §§75.351 – 75.353 (effective 10/1/2024: 2 CFR §200.333;
14 effective 10/1/2025: 2 CFR §200.331 – 200.332).” And HRSA’s updated general terms and
15 conditions require that recipients “ensure the applicable general terms and conditions stated in this
16 document flow down to subrecipients.” HRSA’s updated general terms and conditions link to
17 HHS’s Administrative and National Policy Requirements, which in turn lists examples of laws and
18 policies applicable to subrecipients, including nondiscrimination laws.
19

20 690. Plaintiffs who receive grant funds from Defendants via pass-through grants (i.e., as
21 subrecipients) have a reasonable concern, based on the agency statements and guidance, applicable
22 regulations, and grant agreement language discussed above, that the challenged HUD, DOT, and
23 HHS Grant Conditions apply to their use of the pass-through funds.
24

1 **F. Plaintiffs Face an Impossible Choice of Accepting Illegal Conditions, or**
2 **Forgoing Federal Grant Funding for Critical Programs and Services**

3 691. The grant conditions that Defendants seek to impose leave Plaintiffs with the
4 Hobson’s choice of accepting illegal conditions that are without authority, contrary to the
5 Constitution, and accompanied by the poison pill of heightened risk of FCA claims, or forgoing
6 the benefit of grant funds—paid for (at least partially) through local federal taxes—that are
7 necessary for crucial local services. The uncertainty caused by these illegal conditions has impeded
8 Plaintiffs’ ability to budget and plan for services covered by the grants.

9 692. Nor is the heightened FCA risk merely hypothetical. A May 19, 2025 letter from
10 Deputy Attorney General Todd Blanche to certain DOJ divisions and offices and all U.S. Attorneys
11 states that DOJ is setting up a “Civil Rights Fraud Initiative”—co-led by DOJ’s Civil Fraud Section
12 and Civil Rights Division—that will “utilize the [FCA] to investigate and, as appropriate, pursue
13 claims against any recipient of federal funds that knowingly violates civil rights laws.” The letter
14 asserts the FCA “is implicated whenever federal-funding recipients or contractors certify
15 compliance with civil rights laws while knowingly engaging in racist preferences, mandates,
16 policies, programs, and activities, including through diversity, equity, and inclusion (DEI)
17 programs that assign benefits or burdens on race, ethnicity, or national origin.” It further states that
18 the Civil Fraud Section and Civil Rights Division will “engage with the Criminal Division, as well
19 as with other federal agencies that enforce civil rights requirements for federal funding recipients”
20 (including HUD) and “will also establish partnerships with state attorneys general and local law
21 enforcement to share information and coordinate enforcement actions.” Finally, the letter states
22 that DOJ “strongly encourages” private lawsuits under the FCA and “encourages anyone with
23 knowledge of discrimination by federal-funding recipients to report that information to the
24 25 26

1 appropriate federal authorities so that [DOJ] may consider the information and take any
2 appropriate action.” Letter from Todd Blanche, Deputy Attorney General, to DOJ Offices,
3 Divisions, and U.S. Attorneys (May 19, 2025) (“Blanche Letter”),
4 https://www.justice.gov/dag/media/1400826/dl?inline=&utm_medium=email&utm_source=gov
5 delivery.

6
7 693. Withholding HUD grants from HUD Plaintiffs could result loss of access to
8 housing and crucial housing and other services for millions of residents. For example, withholding
9 HUD block grants from HUD Plaintiffs would jeopardize affordable housing development and
10 preservation efforts. Many of HUD Plaintiffs’ residents would lose access to essential services,
11 including food assistance, mental health services, transitional housing, housing repair, housing
12 access, early education, and senior wellness programs. Loss of this funding would also destabilize
13 budgeting and strategic plans, including multi-year plans, built around federal funding
14 assumptions. The loss of these funds would ripple through local economies affecting jobs,
15 contractor revenues, and long-term community development outcomes such as access to food,
16 basic services, and homeownership and housing stability. Subrecipients of these funds such as
17 food banks, mental health providers, senior centers, and affordable housing agencies could face
18 operational disruptions and be unable to meet the needs of low-income families

19
20 694. Withholding CoC grants from CoC Plaintiffs in particular, could result in a loss of
21 hundreds of millions of dollars in funding for housing and other services that those plaintiffs have
22 adopted to meet the basic needs of their homeless residents. It would result in those plaintiffs being
23 unable to serve their residents resulting in the loss of access to housing, healthcare, counseling,
24 and other assistance. The loss of this funding, which represents a significant percentage of those
25 plaintiffs’ total budgets for homelessness services, would have devastating effects on their

1 residents and communities more broadly.

2 695. Withholding DOT grants from DOT Plaintiffs would result in loss of billions of
3 dollars in funding for critical services and projects for their residents. For example:

- 4 a. Withholding FTA grants from plaintiffs who rely on those funds could result in loss
5 of funding for public transit services, including capital projects, maintenance, and
6 improvements, that will result in long-lasting harm to those plaintiffs' finances and
7 delays to or elimination of critical transit projects. The loss of this funding, which
8 represents a significant percentage of those plaintiffs' total budgets for public
9 transit services, would threaten transit improvements and safety initiatives and have
10 severe negative impacts on these services.
- 11 b. Withholding FHWA grants from plaintiffs who rely on those funds could result in
12 loss of funding for street and roadway improvements, including enhancing
13 pedestrian safety, reconfiguring major roadways to decrease crashes and improve
14 transit, and building bike lanes, that will result in long-lasting harm to those
15 plaintiffs' finances, delays to or elimination of critical infrastructure and safety
16 projects, and diversion of funds from other crucial local projects. The loss of this
17 funding, which represents a significant percentage of those plaintiffs' total budgets
18 for street and roadway projects, would threaten roadway improvement and safety
19 initiatives and have severe negative impacts on these projects.
- 20 c. Withholding FAA grants from plaintiffs who rely on those funds could result in a
21 loss of funding for airport projects—including development and improvement of
22 runways, taxiways, terminals, and roadways as well as airport transit, safety, and
23 sustainability projects—that will result in in long-lasting harm to those plaintiffs'

1 finances, delays to or elimination of critical airport infrastructure and safety
2 projects, and diversion of funds from other crucial airport improvement projects.
3 The loss of this funding, which represents a significant percentage of those
4 plaintiffs' total budgets for airport development and infrastructure projects, would
5 threaten airport improvement and safety initiatives and have severe negative
6 impacts on these critical projects.
7

8 d. Withholding FRA grants from plaintiffs who rely on those funds could result in a
9 loss of funding for rail infrastructure projects, including for railroad crossing
10 projects that seek to improve the safety and mobility of people and goods, that will
11 result in in long-lasting harm to those plaintiffs' finances and delays to or
12 elimination of railway infrastructure and safety projects. The loss of this funding,
13 which represents a significant percentage of those plaintiffs' total budgets for
14 railroad projects, would threaten rail-related safety initiatives and have severe
15 negative impacts on these projects.
16

17 e. Withholding DOT SMART grants from plaintiffs who rely on those funds could
18 result in a loss of funding for advanced smart community technologies and systems
19 projects, including projects using advanced technology and data methods to
20 improve transportation efficiency and safety. This will result in delays or
21 elimination of the planned projects, leading to continued and likely worsened
22 inefficiencies, safety risks, and deterioration of air quality. The loss of this funding
23 would threaten these transportation technology and modernization initiatives and
24 have severe negative impacts on these projects.
25
26

1 (A. Hamilton) and citing *id.*, No. 51, at 350).

2 701. “As Chief Justice Marshall put it, this means that ‘important subjects . . . must be
3 entirely regulated by the legislature itself,’ even if Congress may leave the Executive ‘to act under
4 such general provisions to fill up the details.’” *West Virginia v. EPA*, 597 U.S. 697, 737 (2022)
5 (Gorsuch, J., concurring) (quoting *Wayman v. Southard*, 10 Wheat. 1, 42–43, 6 L. Ed. 253 (1825)).
6

7 702. The separation of powers doctrine thus represents perhaps the central tenet of our
8 Constitution. *See, e.g., Trump v. United States*, 603 U.S. 593, 637–38 (2024); *West Virginia v.*
9 *EPA*, 597 U.S. at 723–24, *Seila Law LLC*, 591 U.S. at 227. Consistent with these principles, the
10 executive acts at the lowest ebb of his constitutional authority and power when he acts contrary to
11 the express or implied will of Congress. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579,
12 637 (1952) (Jackson, J., concurring).
13

14 703. Pursuant to the separation of powers doctrine, the Executive Branch may not
15 “claim[] for itself Congress’s exclusive spending power, . . . [or] coopt Congress’s power to
16 legislate.” *City & Cnty. of S.F.*, 897 F.3d at 1234. Indeed, the Impoundment Control Act of 1974
17 requires the President to notify and request authority from Congress to rescind or defer the
18 expenditure of funds *before* acting to withhold or pause federal payments. 2 U.S.C. §§ 681 *et seq.*
19 The President has not done so.
20

21 704. Congress has not conditioned the provision of HUD grants, DOT grants, or HHS
22 grants on compliance with a prohibition on all forms of DEI policies and initiatives, nor on
23 promoting aggressive and lawless immigration enforcement, requiring exclusion of transgender
24 people, and/or cutting off access to information about lawful abortions. Nor has Congress
25 delegated to Defendants the authority to attach the HUD Grant Conditions, the DOT Grant
26 Conditions, or the HHS Grant Conditions unilaterally.
27

1 705. By imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS
2 Grant Conditions on grant recipients, Defendants are unilaterally attaching new conditions to
3 federal funding without authorization from Congress.

4 706. Further, the “[t]he interpretation of the meaning of statutes, as applied to justiciable
5 controversies,” is “exclusively a judicial function.” *Loper Bright Enterprises v. Raimondo*, 603
6 U.S. 369, 411–13 (2024) (internal quotations omitted).

7 707. Here, Defendants seek to impose conditions that purport to require compliance with
8 the law interpreted and envisioned by the Executive, contrary to Congress’s authority to legislate
9 and the Judiciary’s interpretation of the law’s meaning.

10 708. For these reasons, HUD and its program offices’ conditioning of HUD grants on
11 compliance with the HUD Grant Conditions violates the separation of powers doctrine.

12 709. For the same reasons, DOT Defendants’ conditioning of DOT grants on compliance
13 with the DOT Grant Conditions violates the separation of powers doctrine.

14 710. For the same reasons, HHS and its operating divisions and agencies’ conditioning
15 of HHS grants on compliance with the HHS Grant Conditions violates the separation of powers
16 doctrine.

17
18
19
20 **Count 2: Spending Clause**
(All Grant Conditions)

21 711. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

22 712. The Spending Clause of the U.S. Constitution provides that “Congress”—not the
23 Executive—“shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the
24 Debts and provide for the common Defence and general Welfare of the United States” U.S.
25 Const. art. I, § 8, cl. 1.
26

1 713. As described above, Defendants violate the separation of powers because the HUD
2 Grant Conditions, the DOT Grant Conditions, and the HHS Grant Conditions are neither expressly
3 nor impliedly authorized by Congress. For the same reasons, Defendants violate the Spending
4 Clause as well.

5 714. The Spending Clause also requires States to have fair notice of conditions that apply
6 to federal funds disbursed to them. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17,
7 25 (1981). The grant conditions must be set forth “unambiguously.” *Arlington Cent. Sch. Dist. Bd.*
8 *of Educ. v. Murphy*, 548 U.S. 291, 296 (2006).

9 715. Moreover, funding restrictions may only impose conditions that are reasonably
10 related to the federal interest in the project and the project’s objectives. *S. Dakota v. Dole*, 483
11 U.S. 203, 207, 208 (1987).

12 716. Finally, federal funds “may not be used to induce the States to engage in activities
13 that would themselves be unconstitutional.” *Id.* at 210.

14 717. Even if Congress had delegated authority to the Executive and HUD to condition
15 HUD grant funding on terms prohibiting all forms of DEI policies and initiatives, promoting
16 aggressive and lawless immigration enforcement, requiring exclusion of transgender people, or
17 cutting off access to information about lawful abortions, the HUD Grant Conditions would violate
18 the Spending Clause by:
19

- 20
- 21 a. imposing conditions that are ambiguous, *see Pennhurst*, 451 U.S. at 17;
 - 22 b. imposing conditions that are so severe as to be coercive;
 - 23 c. imposing conditions that are not germane to the stated purpose of HUD program
24 funds, *see Dole*, 483 U.S. at 207 (“[C]onditions on federal grants might be
25 illegitimate if they are unrelated ‘to the federal interest in particular national
26

1 projects or programs.”); and

- 2 d. with respect to the prohibition on promotion of “gender ideology,” imposing a
3 condition that purports to require HUD grant recipients to act unconstitutionally by
4 discriminating on the basis of gender identity and sex, *see id.* at 210.

5 718. Similarly, even if Congress had delegated authority to the Executive or DOT
6 Defendants to condition transportation, mass transit, highway, airport, and railroad funding on
7 recipients’ agreement to terms prohibiting all forms of DEI policies and initiatives as conceived
8 by the Administration or enforcement of federal immigration laws, the DOT Grant Conditions
9 would violate the Spending Clause by imposing ambiguous grant conditions and imposing
10 conditions not germane to the purposes of the statutes that authorize the DOT grant programs.

11 719. Similarly, even if Congress had delegated authority to the Executive or HHS to
12 condition HHS grant funding on recipients’ agreement to terms prohibiting the advancement or
13 promotion of DEI or gender ideology as conceived by the Administration, the HHS Grant
14 Conditions would violate the Spending Clause by imposing ambiguous grant conditions, imposing
15 conditions that are so severe as to be coercive, imposing conditions not germane to the purposes
16 of the statutes that authorize the HHS grant programs, and, to the extent HHS and/or its operating
17 divisions and agencies impose a prohibition on promoting “gender ideology,” imposing a condition
18 that purports to require grant recipients to act unconstitutionally by discriminating on the basis of
19 gender identity and sex.

20
21
22
23 **Count 3: Tenth Amendment**
(All Grant Conditions)

24 720. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

25 721. The Tenth Amendment provides that “[t]he powers not delegated to the United
26

1 States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively,
2 or to the people.” U.S. Const. amend X.

3 722. Legislation that “coerces a State to adopt a federal regulatory system as its own”
4 “runs contrary to our system of federalism.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519,
5 577–78 (2012). States must have a “legitimate choice whether to accept the federal conditions in
6 exchange for federal funds.” *Id.* at 578.

7
8 723. Even if Congress had delegated authority to the Executive or DOT Defendants to
9 condition transportation, mass transit, highway, airport, and railroad funding on a prohibition on
10 any policy that “promotes” the Administration’s conception of an “illegal” DEI program or on
11 participation in the Administration’s aggressive enforcement of federal immigration laws, the
12 DOT Grant Conditions would violate the Tenth Amendment by imposing conditions so severe as
13 to coerce plaintiffs receiving such funds to adopt the Administration’s reinterpretation of the law.
14 *See id.* at 579 (Congress may not impose conditions so severe that they “cross[] the line
15 distinguishing encouragement from coercion.”).

16
17 724. Further, even if Congress had delegated authority to the Executive or HUD to
18 condition housing and development funding on a prohibition on any policy that the advances DEI
19 as conceived by the Administration, facilitating enforcement of immigration laws, verification of
20 immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion,”
21 the HUD Grant Conditions would violate the Tenth Amendment by imposing conditions so severe
22 as to coerce plaintiffs receiving such funds to adopt the Administration’s reinterpretation of the
23 law. *See id.* at 579 (Congress may not impose conditions so severe that they “cross[] the line
24 distinguishing encouragement from coercion.”).

1 725. Moreover, even if Congress had delegated authority to the Executive or HHS to
2 condition health care and human services funding on denying services to immigrants or prohibiting
3 any policy that advances DEI or gender ideology as conceived by the Administration, the HHS
4 Grant Conditions would violate the Tenth Amendment by imposing conditions so severe as to
5 coerce plaintiffs receiving such funds to adopt the Administration’s reinterpretation of the law. *See*
6 *id.* at 579 (Congress may not impose conditions so severe that they “cross[] the line distinguishing
7 encouragement from coercion.”).

9 **Count 4: Fifth Amendment Due Process (Vagueness)**
10 ***(All Grant Conditions)***

11 726. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

12 727. Under the Due Process Clause of the Fifth Amendment, a governmental enactment,
13 like an executive order, is unconstitutionally vague if it “fails to provide a person of ordinary
14 intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages
15 seriously discriminatory enforcement.” *United States v. Williams*, 553 U.S. 285, 304 (2008).

16 728. The HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
17 Conditions are unconstitutionally vague.

18 729. Initially, each of the EO Conditions is vague in purporting to incorporate all
19 executive orders. Executive orders are the President’s directives to federal agencies and do not
20 apply to federal grant recipients. The purported incorporation of all executive orders into the
21 recipient or sponsor’s use of grant funds renders the other new grant conditions vague.

22 730. Each of the Discrimination Conditions fails to make clear what conduct is
23 prohibited and fails to specify clear standards for enforcement. This uncertainty is amplified by
24 agency letters and statements, including the Duffy Letter, the Turner statements, HHS’s policy
25
26

1 guidance and the Kennedy statements, and the Blanche Letter, that are at odds with case law and
2 statutes.

3 731. Each of the HUD Enforcement Conditions (which incorporate by reference the
4 Immigration Order) fails to define the terms “facilitates,” “subsidization,” or “promotion” with
5 respect to “illegal immigration,” leaving federal grant recipients without fair notice of what would
6 violate the prohibition.
7

8 732. Similarly, each of the DOT Enforcement Conditions fails to define the terms
9 “cooperate,” “cooperating,” “impeding,” and “enforcement” with respect to “Federal immigration
10 law,” leaving federal grant recipients without fair notice of what would violate the prohibition.

11 733. Similarly, the FAA Termination Condition does not define “the public interest” or
12 “the interests of the FAA” that would support a termination decision or expressly limit those
13 interests to the funding of airport development or infrastructure, leaving federal grant recipients
14 without fair notice of what would trigger termination of their grants.
15

16 734. The definition of “gender ideology” adopted in each of the Gender Ideology
17 Conditions is so vague as to require people of ordinary intelligence to guess as to what is
18 prohibited. By the same token, each of the Gender Ideology Conditions affords unfettered
19 discretion to HUD, CPD, and HRSA (as well as any other HHS operating division or agency that
20 may follow suit) to determine, based on their subjective interpretation, whether a federal grant is
21 used to “promote gender ideology.”
22

23 735. The meaning of the phrase “promote elective abortion” is also vague, leaving
24 federal grant recipients without fair notice of what activities would violate the prohibition and
25 affording HUD and other agencies unfettered discretion.
26

1 736. The vagueness with which the terms and conditions identified above define the
2 conduct they prohibit is likely to chill First Amendment protected expression on matters of public
3 concern.

4 737. Thus, the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
5 Conditions are unconstitutionally vague in violation of the Fifth Amendment’s Due Process
6 Clause.
7

8 **Count 5: Administrative Procedure Act, 5 U.S.C. § 706(2)**
9 **Arbitrary and Capricious**
10 ***(All Grant Conditions)***

11 738. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

12 739. Defendants HUD, DOT, the DOT OAs (the FTA, the FHWA, the FAA, and the
13 FRA), and HHS are all “agenc[ies]” as defined in the APA, 5 U.S.C. § 551(1). Additionally, the
14 CoC Grant Agreements, the HUD Certifications, the Fernandez Letter, the FTA Master
15 Agreement, the FY 2024 SS4A General Terms and Conditions, the 2025 FHWA General Terms
16 and Conditions, the 2025 FAA Grant Assurances, the FY 2025 FAA AIG Grant Template, the
17 2025 FRA General Terms and Conditions, the 2025 DOT SMART General Terms and Conditions,
18 the 2025 HHS GPS, and the updated CDC, SAMHSA, ACF, and HRSA general terms and
19 conditions are all agency actions subject to review under the APA.

20 740. Final agency actions (1) “mark the ‘consummation’ of the agency’s decision-
21 making process” and (2) are ones “by which ‘rights or obligations have been determined,’ or from
22 which ‘legal consequences will flow.’” *Bennett v. Spear*, 520 U.S. 154, 178 (1997).

23 741. The CoC Grant Agreements are final agency actions of HUD because they reflect
24 final decisions—in accord with presidential directives—to require grant recipients to comply with
25 various Trump Administration policy priorities as a condition to receiving federal CoC funds. *See*

1 *State ex rel. Becerra v. Sessions*, 284 F. Supp. 3d 1015, 1031–32 (N.D. Cal. 2018) (holding that
2 agency decision to impose new conditions on federal grants satisfies both tests for final agency
3 action because it “articulate[s] that certain funds” will “require adherence to the” new conditions
4 and “opens up the [recipient] to potential legal consequences,” including withholding of funds if
5 the recipient declines to accept the conditions); *Planned Parenthood of N.Y.C., Inc. v. U.S. Dep’t*
6 *of Health & Human Servs.*, 337 F. Supp. 3d 308, 328–29 (S.D.N.Y. 2018) (same).

7
8 742. Similarly, the Fernandez Letter and HUD Certifications are final agency actions of
9 HUD because they reflect final decisions—in accord with presidential directives—to require grant
10 recipients to comply with various Trump Administration policy priorities as a condition to
11 receiving federal CPD funds.

12
13 743. Similarly, the FTA Master Agreement, the FY 2024 SS4A General Terms and
14 Conditions, the 2025 FHWA General Terms and Conditions, the 2025 FAA Grant Assurances, the
15 FY 2025 FAA AIG Grant Template, the 2025 FRA General Terms and Conditions, and the 2025
16 DOT SMART General Terms and Conditions are final agency actions of DOT because they reflect
17 final decisions—in accord with presidential directives—to require grant recipients to comply with
18 various Trump Administration policy priorities as a condition to receiving federal DOT funds.

19
20 744. Similarly, the 2025 HHS GPS and the updated CDC, SAMHSA, ACF, and HRSA
21 general terms and conditions are final agency actions of HHS because they reflect final decisions—
22 in accord with presidential directives—to require grant recipients to comply with various Trump
23 Administration policy priorities as a condition to receiving federal HHS funds.

24
25 745. These actions determine rights and obligations and produce legal consequences
26 because they exercise purported authority to create new conditions on already awarded funds that
27 would obligate recipients to comply with the Executive’s policy priorities.

1 746. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
2 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise
3 not in accordance with law.” 5 U.S.C. § 706(2)(A).

4 747. “An agency action qualifies as ‘arbitrary’ or ‘capricious’ if it is not ‘reasonable and
5 reasonably explained.’” *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (quoting *FCC v. Prometheus*
6 *Radio Project*, 592 U.S. 414, 423 (2021)). A court must therefore “ensure, among other things,
7 that the agency has offered ‘a satisfactory explanation for its action[,] including a rational
8 connection between the facts found and the choice made.’” *Id.* (quoting *Motor Vehicle Mfrs. Assn.*
9 *of United States, Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983)). “[A]n
10 agency cannot simply ignore ‘an important aspect of the problem’” addressed by its action. *Id.* at
11 293.
12

13 748. HUD has provided no reasoned explanation for its decision to impose conditions
14 related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws,
15 verifying immigration status, and prohibiting the “promot[ion]” of “gender ideology” and “elective
16 abortion” on HUD funds that have no connection to those issues.
17

18 749. HUD has provided no reasoned basis for withholding funds Congress appropriated
19 for disbursement, except to the extent the CoC Grant Agreements, the HUD Certifications, and
20 Fernandez Letter make clear HUD is enacting the President’s policy desires, as expressed in
21 Executive Orders 14168, 14173, 14182, and 14218, in place of Congress’s intent.
22

23 750. HUD also ignores essential aspects of the “problem” it purports to address via the
24 CoC and CPD grant programs, including HUD Plaintiffs’ reasonable and inevitable reliance on
25 now at-risk funds, the expectation of reimbursement from already appropriated funds, and the
26 potential impacts on homeless individuals and families, low-income individuals and families, and
27

1 other vulnerable people who may be dissuaded from accepting services if they must verify their
2 immigration status or are unable to use their identified gender in doing so.

3 751. Similarly, neither DOT nor its EOs have provided any reasoned basis for anti-DEI-
4 related conditions to the FTA, FHWA, FAA, FRA, and SMART grants, seeking to impose the
5 Administration’s view on all policies and programs, even when they are unrelated to programs
6 receiving such grants. Moreover, DOT and its EOs failed to explain how the DOT Plaintiffs could
7 simultaneously comply with the each of the DOT Discrimination Conditions, while also complying
8 with statutory, regulatory, and other requirements that are in apparent tension with those
9 Conditions.
10

11 752. Nor has DOT or its EOs provided a reasoned basis for imposing conditions related
12 to “cooperation” with federal immigration enforcement on DOT funds that have no connection to
13 that issue.
14

15 753. The DOT and its EOs also have ignored the DOT Plaintiffs’ reasonable reliance on
16 awarded, but not yet obligated, funds and the expectation of reimbursement from already
17 appropriated funds.
18

19 754. Similarly, HHS has provided no reasoned explanation for its decision to impose
20 conditions related to prohibiting all kinds of DEI on HHS funds that have no connection to that
21 issue, nor has HHS or HRSA provided any reasoned explanation for the decision to impose
22 conditions relating to prohibiting the promotion of “gender ideology” on HRSA funds that have
23 no connection to that issue.

24 755. HHS also has ignored the HHS Plaintiffs’ reasonable reliance on awarded, but not
25 yet obligated, funds and the expectation of reimbursement from already appropriated funds.
26

1 756. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
2 § 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
3 Conditions violates the APA because it is arbitrary and capricious; provide preliminary relief under
4 5 U.S.C. § 705; and preliminarily and permanently enjoin Defendants from imposing those
5 Conditions without complying with the APA.
6

7 **Count 6: Administrative Procedure Act, 5 U.S.C. § 706(2)**
8 **Contrary to Constitution**
9 ***(All Grant Conditions)***

10 757. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

11 758. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
12 findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or
13 immunity.” 5 U.S.C. § 706(2)(B).

14 759. As described above, the imposition by HUD, including through its program offices,
15 of the HUD Grant Conditions violates bedrock constitutional provisions and principles including
16 the separation of powers between the President and Congress, the Spending Clause, and the Fifth
17 Amendment.

18 760. In addition, the imposition by DOT, including through its OAs, imposition of the
19 DOT Grant Conditions violates the separation of powers, the Spending Clause, the Tenth
20 Amendment, and the Fifth Amendment.

21 761. In addition, the imposition by HHS, including through its operating divisions and
22 agencies, of the HHS Grant Conditions violates the separation of powers, the Spending Clause,
23 the Tenth Amendment, and the Fifth Amendment.

24 762. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
25 § 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
26

1 Conditions violates the APA because it is contrary to constitutional rights, powers, privileges, or
2 immunities; provide preliminary relief under 5 U.S.C. § 705; and preliminary and permanently
3 enjoin Defendants from imposing those Conditions without complying with the APA.

4
5 **Count 7: Administrative Procedure Act, 5 U.S.C. § 706(2)**
6 **In Excess of Statutory Authority**
7 ***(All Grant Conditions)***

8 763. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

9 764. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
10 findings, and conclusions found to be . . . in excess of statutory jurisdiction, authority, or
11 limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

12 765. Defendants may exercise only authority granted to them by statute or the
13 Constitution.

14 766. No law or provision of the Constitution authorizes Defendants to impose extra-
15 statutory conditions not authorized by Congress on congressionally-appropriated funds.

16 767. Neither the Homeless Assistance Act, the HCD Act, the HEARTH Act, the
17 Appropriations Act, PRWORA, nor any other legislation authorizes HUD or its program offices
18 to impose conditions on HUD grant funding related to prohibiting all forms of DEI policies and
19 initiatives, promoting aggressive and lawless immigration enforcement, requiring exclusion of
20 transgender people, or cutting off access to information about lawful abortions.

21 768. In addition, none of the statutes authorizing the FTA, FHWA, FAA, FRA, and
22 SMART grants, nor the relevant appropriations acts, authorize the DOT or its OAs to impose
23 conditions on transportation, mass transit, highway, airport, or railroad funding related to
24 prohibiting all forms of DEI policies and initiatives or promoting aggressive and lawless
25 immigration enforcement.
26

1 769. In addition, none of the statutes authorizing the HHS grants, nor the relevant
2 appropriations acts, authorize HHS or its operating divisions or agencies to impose conditions on
3 HHS grant funding related to prohibiting all forms of DEI policies and initiatives, requiring
4 exclusion of transgender people, or denying services to immigrants.

5
6 770. Indeed, by threatening to unilaterally withhold funds on the basis of unauthorized
7 agency-imposed grant conditions, DOT, HUD, and HHS attempt to circumvent the process
8 established in the Impoundment Control Act of 1974, which requires the President to notify and
9 request authority from Congress to rescind or defer the expenditure of funds *before* acting to
10 withhold or pause federal payments. 2 U.S.C. §§ 681 *et seq.*

11 771. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
12 § 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
13 Conditions violates the APA because it is in excess of Defendants’ statutory jurisdiction, authority,
14 or limitations, or short of statutory right; provide preliminary relief under 5 U.S.C. § 705; and
15 preliminarily and permanently enjoin Defendants from imposing those Conditions without
16 complying with the APA.
17

18 **Count 8: Administrative Procedure Act, 5 U.S.C. § 706(2)**
19 **Agency Action Contrary to Regulation**
20 ***(CoC and CDBG Grant Conditions)***

21 772. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

22 773. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
23 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise
24 not in accordance with law” or “without observance of procedure required by law.” 5 U.S.C.
25 § 706(2)(A).
26

1 774. HUD’s Rule implementing the CoC program provides that recipients may be
2 required to sign grant agreements containing terms and additional conditions established by HUD
3 beyond those specifically listed to the extent those terms and conditions are established in the
4 applicable NOFO. 24 C.F.R. § 578.23(c)(12). The NOFO under which the CoC Plaintiffs were
5 awarded CoC funding for FY 2024 contains no terms or conditions related to prohibiting all kinds
6 of DEI, facilitating enforcement of federal immigration laws, verifying immigration status, or
7 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

9 775. By imposing new terms and conditions on the CoC Grant Agreements not included
10 in the NOFO or authorized elsewhere in the Rule or any other regulations, HUD failed to comply
11 with its own regulations governing the formation of CoC grant agreements and failed to observe
12 procedure required by law.

13 776. The CoC Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28
14 U.S.C. § 2201 that imposing the CoC Grant Conditions violates the APA because it is contrary to
15 HUD’s own regulations and thus not in accordance with law and without observance of procedure
16 required by law; provide preliminary relief under 5 U.S.C. § 705; and preliminarily and
17 permanently enjoin HUD from imposing the CoC Grant Conditions without complying with the
18 APA.

19 777. HUD’s rule implementing the CDBG program provides that “HUD *will* approve a
20 grant if the jurisdiction’s submissions have been made and approved in accordance with 24 CFR
21 part 91 and the certifications required therein are satisfactory to the [HUD] Secretary. The
22 certifications will be satisfactory to the Secretary for this purpose unless the Secretary has
23 determined pursuant to subpart O of this part that the grantee has not complied with the
24 requirements of this part, has failed to carry out its consolidated plan as provided under § 570.903,

1 or has determined that there is evidence, not directly involving the grantee’s past performance
2 under this program, that tends to challenge in a substantial manner the grantee's certification of
3 future performance.” 24 C.F.R. § 570.304. Nothing in the certifications required under 24 CFR
4 part 91 relate to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws,
5 verifying immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective
6 abortion.”
7

8 778. By imposing new terms and conditions on the CDBG grants not included in 24
9 C.F.R. part 91 or authorized elsewhere in any regulations, HUD failed to comply with its own
10 regulations governing the formation of CDBG grant agreements and failed to observe procedure
11 required by law.

12 779. The HUD Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 24
13 C.F.R. § 570.304 that imposing the CPD Grant Conditions violates the APA because it is contrary
14 to HUD’s own regulations and thus not in accordance with law and without observance of
15 procedure required by law; provide preliminary relief under 5 U.S.C. § 705; and preliminarily and
16 permanently enjoin HUD from imposing the CPD Grant Conditions as to CDBG grants without
17 complying with the APA.
18

19 **Count 9: Administrative Procedure Act, 5 U.S.C. § 706(2)**
20 **Agency Action Without Procedure Required By Law**
21 ***(FTA, FAA, FRA, and HUD Grant Conditions)***

22 780. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

23 781. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
24 findings, and conclusions found to be . . . without observance of procedure required by law.”
25 5 U.S.C. § 706(2)(D).
26

1 782. An agency “must abide by its own regulations.” *Fort Stewart Schs. v. Fed. Labor*
2 *Rel. Auth.*, 495 U.S. 641, 654 (1990).

3 783. HUD has adopted regulations requiring it to proceed by notice-and-comment
4 rulemaking including for “matters that relate to . . . grants.” 24 C.F.R. § 10.1 (“It is the policy of
5 the Department of Housing and Urban Development to provide for public participation in
6 rulemaking with respect to all HUD programs and functions, including matters that relate to public
7 property, loans, grants, benefits, or contracts”); 24 C.F.R. § 10.2 (definition of “rule”); 24
8 C.F.R. §§ 10.7–10.10 (notice-and-comment procedures); *Yesler Terrace Cmty. Council v.*
9 *Cisneros*, 37 F.3d 442, 447, 448 (9th Cir. 1994).

10 784. The FTA is subject to statutory notice-and-comment requirements for certain
11 statements pertaining to grants issued under title 49, chapter 53 of the U.S. Code (including the
12 FTA Grants). Specifically, “[t]he Administrator of the [FTA] shall follow applicable rulemaking
13 procedures under section 553 of title 5 before the [FTA] issues a statement that imposes a binding
14 obligation on recipients of Federal assistance under this chapter.” 49 U.S.C. § 5334(k)(1). For this
15 purpose, “binding obligation” means “a substantive policy statement, rule, or guidance document
16 issued by the [FTA] that grants rights, imposes obligations, produces significant effects on private
17 interests, or effects a significant change in existing policy.” *Id.* § 5334(k)(2).

18 785. The FTA, the FAA, and the FRA have also adopted regulations requiring those
19 agencies to proceed by notice-and-comment rulemaking when they promulgate substantive rules.
20 *See* 49 C.F.R. §§ 601.22(a), 601.24–601.28 (FTA); 14 C.F.R. Part 11 (FAA); 49 C.F.R. §§ 211.11–
21 211.33 (FRA).

22 786. Through the HUD Grant conditions, HUD has not just continued preexisting
23 requirements to comply with nondiscrimination laws and the other types of conditions approved
24

1 by and consistent with the relevant statutes and regulations, but also attached new conditions on
2 grant agreements that require grant recipients to comply with various Administration directives as
3 a condition to receiving federal HUD funds. These new conditions thus comprise a substantive
4 rule, not an interpretive rule or general statement of policy. *See, e.g., Yesler Terrace Cmty. Council,*
5 *37 F.3d at 449* (“Substantive rules . . . create rights, impose obligations, or effect a change in
6 existing law pursuant to authority delegated by Congress.”); *Erringer v. Thompson*, *371 F.3d 625,*
7 *630 (9th Cir. 2004)* (explaining that a rule is substantive, i.e., “legislative,” inter alia, if there is no
8 “adequate legislative basis for enforcement action” without the rule, or if the rule “effectively
9 amends a prior legislative rule”).

11 787. In imposing the HUD Grant Conditions, HUD failed to comply with the notice-
12 and-comment requirements set forth in its own regulations, and thus failed to observe procedure
13 required by law.

15 788. Through the FTA Grant Conditions, the FAA Grant Conditions, and the FRA Grant
16 Conditions, the FTA, the FAA, and the FRA have not just continued preexisting requirements to
17 comply with nondiscrimination laws and the other types of conditions approved by and consistent
18 with the relevant statutes and regulations, but also attached new terms and conditions to FTA,
19 FAA, and FRA Grants that require grant recipients to comply with various Administration
20 directives as a condition to receiving federal transit, airport, and railroad funds, which are
21 substantive policy statements, rules, or guidance documents that impose obligations or effect
22 significant changes in existing policy, not interpretive rules or general statements of policy.

24 789. In imposing the FTA Grant Conditions, the FTA failed to comply with the notice-
25 and-comment requirements set forth in 49 U.S.C. § 5334(k)(1) and its own regulations, and thus
26 failed to observe procedure required by law.

1 authorized by statute, violate the APA, and are otherwise unlawful;

2 D. A preliminary and permanent injunction enjoining DOT Defendants from imposing
3 or enforcing the DOT Grant Conditions or any materially similar terms or
4 conditions to any DOT applications submitted by, or DOT funds received by or
5 awarded to, directly or indirectly, DOT Plaintiffs; and
6

7 WHEREFORE, HHS Plaintiffs request the following relief:

8 E. A declaration that the HHS Grant Conditions are unconstitutional, are not
9 authorized by statute, violate the APA, and are otherwise unlawful;

10 F. A preliminary and permanent injunction enjoining HHS from imposing or
11 enforcing the HHS Grant Conditions or any materially similar terms or conditions
12 to any HHS applications submitted by, or HHS funds received by or awarded to,
13 directly or indirectly, HHS Plaintiffs by HHS or any HHS operating administration;
14 and
15

16 WHEREFORE, all Plaintiffs request the following additional relief:

17 G. Award Plaintiffs their reasonable costs and attorneys' fees; and

18 H. Grant any other further relief that the Court deems fit and proper.

19 DATED this 13th day of November, 2025.
20

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THIRD AMENDED COMPLAINT FOR
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** Pro Hac Vice application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, I served a true and correct copy of the Third Amended Complaint for Declaratory and Injunctive Relief on the existing parties by the method(s) indicated below:

Brian C. Kipnis Sarah L. Bishop Rebecca S. Cohen <i>Assistant United States Attorneys</i> Office of the United States Attorney 700 Stewart Street, Suite 5220 Seattle, WA 98101-1271 brian.kipnis@usdoj.gov sarah.bishop@usdoj.gov rebecca.cohen@usdoj.gov <i>Attorneys for Defendants</i>	<input checked="" type="checkbox"/> CM/ECF E-service <input type="checkbox"/> Email <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail / Return Receipt Requested <input type="checkbox"/> Hand delivery / Personal service
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I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 13th day of November, 2025.

/s/ Erica Knerr
Litigation Assistant
Pacifica Law Group LLP