No. 24A

In the Supreme Court of the United States

UNITED STATES DEPARTMENT OF EDUCATION, ET AL., APPLICANTS

v.

STATE OF CALIFORNIA, ET AL.

APPLICATION TO VACATE THE ORDER ISSUED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY

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PARTIES TO THE PROCEEDING

Applicants (defendants-appellants below) are the United States Department of Education; Linda McMahon, Secretary of Education; and Denise Carter, Chief Operating Officer for Federal Student Aid in the Department of Education.

Respondents (plaintiffs-appellees below) are the States of California, Massachusetts, New Jersey, Colorado, Illinois, Maryland, New York, and Wisconsin.

RELATED PROCEEDINGS

United States District Court (D. Mass.):

California v. *United States Department of Education*, No. 25-cv-10548 (Mar. 10, 2025)

United States Court of Appeals (1st Cir.):

California v. *United States Department of Education*, No. 25-1244 (Mar. 21, 2025)

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Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Acting Solicitor General—on behalf of applicants the United States Department of Education, et al.—respectfully files this application to vacate the March 10, 2025 order issued by the United States District Court for the District of Massachusetts (App., *infra*, 1a-10a), as extended on March 24. In addition, the Acting Solicitor General respectfully requests an administrative stay of the district court's order, which requires the government to immediately reinstate millions of dollars in federal grants that had been lawfully terminated, pending the Court's consideration of this application.

This case exemplifies a flood of recent suits that raise the question: "Does a single district-court judge who likely lacks jurisdiction have the unchecked power to compel the Government of the United States to pay out (and probably lose forever)" millions in taxpayer dollars? *Department of State* v. *AIDS Vaccine Advocacy Coal.*, 145 S. Ct. 753, 753 (2025) (Alito, J., dissenting from denial of application to vacate

order).[1] Unless and until this Court addresses that question, federal district courts will continue exceeding their jurisdiction by ordering the Executive Branch to restore lawfully terminated grants across the government, keep paying for programs that the Executive Branch views as inconsistent with the interests of the United States, and send out the door taxpayer money that may never be clawed back. This Court should put a swift end to federal district courts' unconstitutional reign as self-appointed managers of Executive Branch funding and grant-disbursement decisions.

This case presents an ideal candidate for this Court to impose restraint, for it follows a familiar pattern. Between February 7 and 12, the Department of Education canceled a host of discretionary grants after individually reviewing them and determining that they were inconsistent with the new Administration's policies and priorities. Respondents, eight States whose instrumentalities receive grants or in which

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[1] See *RFE/RL, Inc.* v. *Lake*, No. 25-cv-799, 2025 WL 900481, at *1 (D.D.C. Mar. 25, 2025) (challenge to termination of global-media grants); *American Ass'n of Colls. for Teacher Educ.* v. *McMahon*, No. 25-cv-702, 2025 WL 863319, at *1 (D. Md. Mar. 19, 2025) (termination of education grants), appeal docketed, No. 25-1281 (4th Cir. Mar. 24, 2025); *Climate United Fund* v. *Citibank, N.A.*, No. 25-cv-698, 2025 WL 842360, at *1 (D.D.C. Mar. 18, 2025) (termination of more than $10 billion in environmental grants); *AIDS Vaccine Advocacy Coal.* v. *United States Dep't of State*, No. 25-400, 2025 WL 752378, at *1, *15 (D.D.C. Mar. 10, 2025) (order requiring payment of $2 billion in foreign aid by date certain); *Massachusetts* v. *National Insts. of Health*, No. 25-cv-10338, 2025 WL 702163, at *1 (D. Mass. Mar. 5, 2025) (cuts in biomedical-research grants "totaling billions of dollars"); *Pacito* v. *Trump*, No. 25-cv-255, 2025 WL 655075, at *5-*6, *16-*17 (W.D. Wash. Feb. 28, 2025) (suspension of refugee funding), appeal pending, No. 25-1313 (9th Cir. Mar. 3, 2025), injunction stayed in part (Mar. 25, 2025). Other recently filed cases have invited district courts to follow the same path. See, *e.g.*, *Massachusetts Fair Hous. Ctr.* v. *Department of Hous. & Urban Dev.*, No. 25-cv-30041 (D. Mass. Mar. 13, 2025) (termination of millions of dollars in fair-housing grants); *National Urban League* v. *Trump*, No. 25-cv-471 (D.D.C. Feb. 19, 2025) (termination of DEI-related grants). Meanwhile, one district court has correctly declined to issue injunctive relief and held that the Court of Federal Claims has jurisdiction; that ruling is now before the D.C. Circuit. See *United States Conference of Catholic Bishops* v. *United States Dep't of State*, 25-cv-465, 2025 WL 763738, at *2 (D.D.C. Mar. 11, 2025) (suspension of grants worth $65 million total in refugee funding), appeal pending, No. 25-5066 (D.C. Cir. Mar. 14, 2025).

grantees are located, waited a month to demand a temporary restraining order (TRO) from the United States District Court for the District of Massachusetts. Nonetheless, the court issued a TRO within two business days, after a short hearing—but without awaiting briefing from the government or correctly assuring itself of its jurisdiction. And this week, the court extended the TRO for up to two more weeks, until it decides respondents' motion for a preliminary injunction. D. Ct. Doc. 79 (Mar. 24, 2025).

That order is forcing the government to continue paying millions of dollars in grant money. Respondents "want[] the Government to keep paying up"—"to cancel the termination[s], pay money due, and reinstate the [grants]." *United States Conference of Catholic Bishops* v. *United States Dep't of State*, 25-cv-465, 2025 WL 763738, at *5-*6 (D.D.C. Mar. 11, 2025), appeal pending, No. 25-5066 (D.C. Cir. Mar. 14, 2025). That is what the order does here. But the Court of Federal Claims, not a federal district court, has jurisdiction over such claims to make the government pay out on contracts. See *AIDS Vaccine*, 145 S. Ct. at 754 (Alito, J., dissenting from denial of application to vacate order). District-court judges in a handful of forums across the country are now pervasively reimagining contract and grant-termination claims as Administrative Procedure Act (APA) suits, vesting themselves with jurisdiction that Congress has withheld from them. The aim is clear: to stop the Executive Branch in its tracks and prevent the Administration from changing direction on hundreds of billions of dollars of government largesse that the Executive Branch considers contrary to the United States' interests and fiscal health.

The First Circuit's decision—which took a full week after the completion of briefing on the government's emergency motion for a stay pending appeal—assumed *arguendo* that the district court's order was appealable, but saw no problem with letting federal district courts resolve heartland contract and grant-termination claims.

App., *infra*, 20a-36a. Under the First Circuit's reasoning, so long as plaintiffs challenge grant or contract terminations with "arguments derived from the [APA]" and invoke regulatory and statutory provisions channeling an agency's discretion, they can proceed in federal district court. *Id.* at 26a; see *id.* at 26a-29a. That is plainly wrong: plaintiffs cannot circumvent federal sovereign immunity and obtain orders opening federal funding spigots just by dressing up their contract or grant-termination claims as assertions of "arbitrary and capricious" decisionmaking. The same D.C. Circuit precedent that the First Circuit purported to apply makes that clear. See *Megapulse, Inc.* v. *Lewis*, 672 F.2d 959, 967-968 (D.C. Cir. 1982). The First Circuit's legally and factually flawed APA analysis compounds the problem. This case thus presents another opportunity to "[c]larif[y] * * * the standards for distinguishing between a TRO and a preliminary injunction" and "the scope of the APA's waiver of sovereign immunity"—"matter[s] that deserve[] this Court's attention at the present time." *AIDS Vaccine*, 145 S. Ct. at 755 n.* (Alito, J., dissenting from denial of application to vacate order).

Meanwhile, the district court's order is predictably impeding the Executive Branch's constitutional functions. The Administration made a judgment to terminate diversity, equity, and inclusion (DEI)-related grants. Yet the district court's order is enabling many of those grantees to request payments on their grants, which grantees now have an incentive to do quickly. Nor will there be a reliable means of recovering the funds that are being disbursed under the court's order. So long as there is no prompt appellate review of these orders, there is no end in sight for district-court fiscal micromanagement. Only this Court can right the ship—and the time to do so is now.

STATEMENT

1. Congress granted the Department of Education broad authority to operate the two grant programs at issue here, which relate to the preparation and professional development of schoolteachers. First, the Teacher Quality Partnership (TQP) program provides that "the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out" certain activities, including "a program for the preparation of teachers," a "teaching residency program," and "a leadership development program." 20 U.S.C. 1022a(a) and (c); see 20 U.S.C. 1022a(b) (requiring applications to be submitted "to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require"). Second, the Supporting Effective Educator Development (SEED) program generally directs the Secretary to "award grants, on a competitive basis, to eligible entities for" five broad "purposes," such as "providing evidence-based professional development activities" or "making freely available services and learning opportunities to local educational agencies." 20 U.S.C. 6672(a). The grants are paid out of funds appropriated by Congress to the Department and "reserved by the Secretary." *Ibid.*; see 20 U.S.C. 6621(4), 6671(1).

On February 5, 2025, the Acting Secretary of Education directed "an internal review of all new grant awards, grants that have not yet been awarded to specific individuals or entities (e.g., notices of funding opportunities), and issued grants," so as to "ensur[e] that Department grants do not fund discriminatory practices—including in the form of DEI—that are either contrary to law or to the Department's policy objectives, as well as to ensure that all grants are free from fraud, abuse, and duplication." App., *infra*, 12a (alteration omitted). In a multistep process involving seven personnel over the course of a week, the Department reviewed each existing TQP and

SEED grant individually—examining grant applications, grant agreement terms and conditions, and publicly available information about funded programs—and found objectionable DEI material in many of them. *Id.* at 12a-13a.

One grant, for example, "funded a project that involved a 'racial and ethnic autobiography' that asked whether individuals ever 'felt threatened? marginalized? privileged?' and how they would 'seek to challenge power imbalances.'" App., *infra*, 13a. Another grant project sought to ensure that teachers were "purposeful in implementing cultural and SEL [social-emotional learning]/DEI practices with fidelity." *Ibid.* The Department ultimately concluded that 104 grants should be terminated as contrary to law or the Department's policy objectives; five grants remained in place. *Id.* at 13a-14a.

For each terminated grant, the Department issued a letter stating that the funded programs "promote or take part in DEI initiatives or other initiatives that unlawfully discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic"; " violate either the letter or purpose of Federal civil rights law"; "conflict with the Department's policy of prioritizing merit, fairness, and excellence in education"; "are not free from fraud, abuse, or duplication"; "or * * * otherwise fail to serve the best interests of the United States." App., *infra*, 14a. Each terminated grant, the letters explained, was therefore "inconsistent with, and no longer effectuate[s], Department priorities." *Ibid.* The letters invoked the Department's regulatory authority to terminate grants that "no longer effectuate[] the program goals or agency priorities," 2 C.F.R. 200.340(a)(4), an authority that was also incorporated into the terms and conditions of the original grant awards, see App., *infra*, 12a.

2. a. On Thursday, March 6, 2025—about a month after the TQP and

SEED grants were canceled—respondents filed a civil action and sought a temporary restraining order against the Department of Education, the Secretary of Education, and the former Acting Secretary of Education in the United States District Court for the District of Massachusetts. D. Ct. Docs. 1 and 2. Respondents stated that "various organizations" operating in their States (public and private universities as well as nonprofit organizations) received TQP and SEED grants from the Department, although respondents identified only examples and not all relevant grantees. D. Ct. Doc. 1, at 17; see *id.* at 17-26. Respondents claimed that the grant terminations violated the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, 701 *et seq.*, and invoked the APA as the basis for the court's jurisdiction. They claimed the grant terminations to be arbitrary and capricious and an abuse of discretion, 5 U.S.C. 706(2)(A), based on the objection that the Department did not, among other things, "provide a transparent and reasonable explanation for the termination of the grants." D. Ct. Doc. 1, at 47; see *id.* at 46-49. They further claimed that the Department was "not authorized by applicable regulations to terminate federal grant awards on the grounds asserted." *Id.* at 50. Rather than giving the government a deadline to respond, the court held a hearing with the parties on Monday, March 10, 2025.

Later that day, the district court issued an order labeled as a 14-day TRO. "[E]ffective immediately," the court ordered the government to undo the termination of TQP or SEED grants for all "recipients *in* [the] Plaintiff States." App., *infra*, 9a (emphasis added). It "temporarily enjoined" the government from implementing or reinstating those terminations or "terminating any individual TQP and SEED grant for recipients in [the] Plaintiff States, except" as "consistent with the Congressional authorization and appropriations, relevant federal statute, including the requirements of the APA, the requirements of the relevant implementing regulations, the

grant terms and conditions, and th[e district court's] order." *Id.* at 10a. The court further ordered the government to provide notice of the TRO to all Department employees and all TQP and SEED grantees "in Plaintiff States" within 24 hours. *Ibid.*

The district court rejected the government's contention that the court lacked jurisdiction over the case, given the exclusive jurisdiction in the Court of Federal Claims for certain contract claims, because "the source of the plaintiffs' rights was in federal statute and regulations and because the relief was injunctive in nature." App., *infra*, 2a. The court equated the standards for issuing TROs and preliminary injunctions, *id.* at 3a, and concluded that respondents had satisfied that standard.

Starting with their likelihood of success on the merits, the court found that respondents were likely to succeed on their arbitrary-and-capricious APA claim. It expressed a belief that "there was no individualized analysis of any of the [grant] programs"; to the court, it "appear[ed] that *all* TQP and SEED grants were simply terminated." App., *infra*, 4a. The court also observed that each terminated program received the same termination letter, and it concluded that the letter lacked any reasoned explanation for the Department's action because it did not spell out in detail reasoning specific to each grant. *Id.* at 4a-5a. The court found further fault with the Department's explanation because the Department had significantly changed its policies since the grant awards were first authorized. *Id.* at 6a. The court did not address respondents' other claims. *Id.* at 6a n.3.

The district court also quickly found that respondents satisfied the other requirements for relief. It concluded that respondents had shown irreparable harm based on the cessation of funding that allegedly required the cancellation of certain programs. App., *infra*, 7a-8a. And the court found that the only harm to the government would be that it "merely would have to disburse funds that Congress has ap-

propriated to the States and others." *Id.* at 9a (citation omitted).

b. The government promptly began working to "restore[] access to funds and lift[] payment restrictions for grantees who received a grant termination letter." App., *infra*, 14a. Two days later, on March 12, the government moved the district court for a stay of the TRO pending appeal. D. Ct. Doc. 54 and 55. The government explained that the key factual premise underlying the TRO—"that the terminations at issue were determined without individualized consideration"—was incorrect because the grants were individually reviewed, which "resulted in termination of most—but not all—of the current grants under the relevant programs." D. Ct. Doc. 55, at 1; see *id.* at 3-4; App., *infra*, 12a. The government also highlighted the significant, irremediable consequences of the TRO: the order requires the disbursement of up to $65 million in funds remaining on the newly reinstated grants. Grantees, knowing that the Department plans to terminate the grants, now have every "incentive to draw down and spend * * * as quickly as possible" even as the government would "lack[] reliable ways to recoup" released funds. D. Ct. Doc. 55, at 7; see App., *infra*, 14a-15a. Rather than engaging with these arguments, the district court denied the stay motion the next day, March 13, in a two-page order. App., *infra*, 16a-17a.

3. Also on March 12, the government appealed to the United States Court of Appeals for the First Circuit and moved that court for a stay pending appeal and for an immediate administrative stay of the district court's order. The court of appeals denied immediate relief the same day, ordered further briefing, and expressed its intention to decide "on the broader request for stay relief as soon as practicable" after the completion of briefing on March 14. App., *infra*, 18a.

But the First Circuit ruled only on March 21, denying the government's stay motion entirely. App., *infra*, 20a-36a. The court of appeals assumed it had appellate

jurisdiction despite the order's TRO label. *Id.* at 24a. Turning to likelihood of success, the court rejected the government's jurisdictional argument on the theory that respondents' framing of their case as an APA action made it cognizable under the APA. See *id.* at 25a-27a. The court elaborated that respondents' claim did not have the nature of a non-APA suit for compensation for past-due sums, *id.* at 26a, yet later expressed the view that relevant grant "recipients submit reimbursement requests" to the Department "for expenses already incurred," *id.* at 33a. The court further deemed respondents' claims cognizable under the APA by virtue of statutory and regulatory provisions that it viewed as "cabin[ing] the Department's discretion as to when it can terminate existing grants." *Id.* at 28a.

On the merits, the court of appeals agreed with the district court that the grant terminations were likely arbitrary and capricious. App., *infra*, 29a-33a. The court went on to dismiss the government's irreparable-harm concerns as "speculation and hyperbole," even as it acknowledged "the Department may incur some irreparable harm if it cannot recoup th[e] money" being disbursed by order of the district court. *Id.* at 33a-34a. The court further found it "premature to address the adequacy of the district court's explanation" for ordering relief to nonparty entities. *Id.* at 36a. On the next business day after the court of appeals' decision, the district court extended the TRO for up to two weeks (*i.e.*, up to April 7), "until the date of [its] decision" on respondents' pending motion for a preliminary injunction. D. Ct. Doc. 79.

4. Meanwhile, on March 17, 2025, the United States District Court for the District of Maryland, in connection with a different lawsuit brought by three associations, also ordered the Department to reinstate within five days the terminated TQP and SEED grants, as well as grants under another Department program, for the members of those associations. *American Ass'n of Colls. for Teacher Educ.* v.

McMahon, No. 25-cv-702, 2025 WL 833917, appeal docketed, No. 25-1281 (4th Cir. Mar. 24, 2025). That order was issued as a preliminary injunction after briefing and argument by the parties, and concluded, among other things, that the plaintiffs were likely to succeed on the merits of their APA claims. See *id.* at *1, *16-*22. The potential overlap between these two orders thus creates even more troubling incentives for grantees. The district court here granted relief for all grant recipients in respondents' States, whereas the Maryland preliminary injunction covers grantee members of three particular teacher-education organizations. Grantees covered by the putative TRO—but not the preliminary injunction—thus face different incentives as to when to draw down funds.

ARGUMENT

Under Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Court may vacate a district order's interlocutory order granting emergency relief. See, *e.g.*, *Trump* v. *International Refugee Assistance Project*, 582 U.S. 571 (2017) (per curiam); *Brewer* v. *Landrigan*, 562 U.S. 996 (2010); *Brunner* v. *Ohio Republican Party*, 555 U.S. 5, 6 (2008) (per curiam). An applicant must show (1) a likelihood of success on the merits, (2) a reasonable probability of obtaining certiorari, and (3) a likelihood of irreparable harm. See *Hollingsworth* v. *Perry*, 558 U.S. 183, 190 (2010) (per curiam). In "close cases," "the Court will balance the equities and weigh the relative harms." *Ibid.* Those factors strongly support relief here.

A. The Government Is Likely To Succeed On The Merits

This application should not present a close call. The district court lacked jurisdiction to entertain these claims under the APA in the first place: this is essentially a contract suit that belongs in the Court of Federal Claims, not a district court. That error alone "deserves this Court's attention at the present time," *AIDS Vaccine*,

supra, 145 S. Ct. at 755 n.* (Alito, J., dissenting from denial of application to vacate order), particularly because the lower courts' jurisdictional analysis conflicts with precedent of the D.C. Circuit. Other errors in the district court's analysis on the road to forcing the government to reinstate and pay out grants against its interests further corroborate the need for review. Far from violating the APA, the grant terminations at issue are not subject to arbitrary-and-capricious APA review at all due to the discretionary nature of the TQP and SEED grant programs. The order is also plainly overbroad: it grants interim relief to nonparties and grants relief that exceeds the scope of the legal problem that the court asserted.

1. The district court lacked jurisdiction to compel payments

The district court lacked jurisdiction entirely to order the government to turn back on grant disbursements and pay out millions of dollars to grantees. That recurring and important issue calls out for this Court's intervention. See *AIDS Vaccine*, 145 S. Ct. at 755-756 (Alito, J., dissenting from denial of application to vacate order); see also p. 2 n.1, *supra* (citing other pending cases raising the same issue).

a. Federal courts generally lack jurisdiction to order the federal government to pay money unless Congress "unequivocally" waives the government's sovereign immunity. *Lane* v. *Pena*, 518 U.S. 187, 192 (1996). The APA provides a limited waiver of sovereign immunity for claims "seeking relief other than money damages." 5 U.S.C. 702. But the APA's waiver "comes with an important carve-out": it does not apply "'if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.'" *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians* v. *Patchak*, 567 U.S. 209, 215 (2012) (quoting 5 U.S.C. 702). That carve-out "prevents plaintiffs from exploiting the APA's waiver to evade limitations on suit contained in other statutes." *Ibid.*

Thus, parties that seek to access funds that the government is purportedly obligated to pay under contracts or grants must typically proceed under the Tucker Act, not the APA. The Tucker Act provides that the "United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded" on "any express or implied contract with the United States." 28 U.S.C. 1491(a); see 28 U.S.C. 1346(a)(2) ("the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States"). The D.C. Circuit has therefore "held that the Tucker Act 'impliedly forbids'" the bringing of "contract actions" against "the government in a federal district court" under the APA. *Albrecht* v. *Committee on Emp. Benefits of the Fed. Reserve Emp. Benefits Sys.*, 357 F.3d 62, 67-68 (2004) (citation omitted). And that jurisdictional barrier matters. It ensures that contract claims against the government are channeled into the court that has "unique expertise" in that area, *Ingersoll-Rand Co.* v. *United States*, 780 F.2d 74, 78 (D.C. Cir. 1985), and which Congress has generally not empowered to grant injunctive relief, see *James* v. *Caldera*, 159 F.3d 573, 580 (Fed. Cir. 1998).

The D.C. Circuit carefully considers whether "an action is in 'its essence' contractual," *Perry Capital LLC* v. *Mnuchin*, 864 F.3d 591, 618-619 (2017) (citation omitted), cert. denied, 583 U.S. 1115 (2018), which "depends both on the source of the rights upon which the plaintiff bases its claims, and upon the type of relief sought." *Megapulse*, *supra*, 672 F.2d at 968. When a plaintiff's claim is premised on a contract with the government, depends on the government's having breached that contract, and seeks to compel the government to pay sums due under the contract, that is a Tucker Act claim, not an APA claim. See *id.* at 967-971.

b. Those black-letter rules should have precluded the district court in this

case from exercising jurisdiction under the APA. First, respondents have never disputed that their TQP and SEED grant awards have the essential characteristics of contracts. See Resp. C.A. Opp. 17. When the government implements grants by "employ[ing] contracts to set the terms of and receive commitments from recipients," the grants are properly treated as contracts for purposes of jurisdiction in the Claims Court. *Boaz Housing Auth.* v. *United States*, 994 F.3d 1359, 1368 (Fed. Cir. 2021); see, *e.g.*, *Henke* v. *United States Dep't of Commerce*, 83 F.3d 1445, 1450-1451 (D.C. Cir. 1996) (federal grant had the "essential elements of a contract"). And those grant agreements are plainly "the source of the rights upon which" respondents base their claims. *Megapulse*, 672 F.2d at 968. Respondents, after all, demand that grantees receive funds they claim should be disbursed under grant agreements with the government. Respondents allege that the government terminated the grants and withheld funds improperly and in violation of the grant instruments' terms and conditions. See D. Ct. Doc. 1, at 4-5. They would have no claim at all without having alleged a breach of the grant agreements by the government.

Second, rather than challenging some regulatory action with monetary implications—the kind of claim that does not necessarily entail any contractual breach—respondents at bottom seek what they view as sums owed to them by the government. *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U.S. 204, 212 (2002); see *Maine Community Health Options* v. *United States*, 590 U.S. 296, 326-327 (2020); cf. *Bowen* v. *Massachusetts*, 487 U.S. 879 (1988). APA suits do not "claim a breach of contract" and "seek[] no monetary damages against the United States"; such claims instead rest on statutory or constitutional theories independent of the contract terms. *Megapulse*, 672 F.2d at 969. But here, the payment of money, far from being merely incidental to or "hint[ed] at" by respondents' request for relief, is the entire object of re-

spondents' suit. *Crowley Gov't Servs., Inc.* v. *General Servs. Admin.*, 38 F.4th 1099, 1112 (D.C. Cir. 2022) (citation omitted). The appropriate vehicle for a claim seeking sums allegedly wrongfully withheld by the government is a "Tucker Act [suit] in the Claims Court," not an APA action. *Bowen*, 487 U.S. at 890 n.13 (quoting *Massachusetts* v. *Secretary of Health & Human Servs.*, 816 F.2d 796, 800 (1st Cir. 1987)); see *Crowley*, 38 F.4th at 1107. Indeed, insofar as the relevant grantees receive their funding as reimbursements "for expenses already incurred," App., *infra*, 33a; see Resp. C.A. Opp. 2, respondents' suit presents a particularly clear case. Suits seeking "compensat[ion] for completed labors" belong in the Claims Court. *Maine Community*, 590 U.S. at 327.

c. In holding otherwise, the First Circuit gave lip service to D.C. Circuit precedent while breaking entirely from the D.C. Circuit's actual approach. See App., *infra*, 25a-27a. The decision below deemed the "'essence'" of respondents' claims as "not contractual" because they "challenge the Department's actions as insufficiently explained, insufficiently reasoned, and otherwise contrary to law—arguments derived from the [APA], 5 U.S.C. § 706(2)(A)." *Id.* at 25a-26a (quoting *Megapulse*, 672 F.2d at 968). The district court reasoned similarly. *Id.* at 3a. By that logic, however, plaintiffs could bring virtually any paradigmatic contract suit under the APA by simply incanting the language of the APA's judicial-review provisions—the very open-ended, plead-around approach that the D.C. Circuit has long rejected. "It is hard to conceive of a claim falling no matter how squarely within the Tucker Act which could not be urged to involve as well agency error subject to review under the APA." *Megapulse*, 672 F.2d at 967 n.34 (brackets and citation omitted); see *Catholic Bishops*, 2025 WL 763738, at *7 ("Sure, the [plaintiff] seeks to set aside agency action. But the agency action that it asks the Court to reverse is the Government's decision to

cease a financial relationship with the [plaintiff].").

Nor does it matter, as the First Circuit supposed, App., *infra*, 26a, that respondents claim the government "acted in violation of federal law" in terminating the grants. As the D.C. Circuit explained in *Ingersoll-Rand*, 780 F.2d 74, "merely * * * alleging violations of regulatory or statutory provisions rather than breach of contract" does not deprive a suit of its contractual essence for these jurisdictional purposes. *Id.* at 77; see *id.* at 78 (collecting cases). Just because respondents invoke statutes and regulations that "might impose procedural requirements on the government having some impact on the contract" does not mean that those provisions "create[] the substantive right to the remedy [they] seek[]." *Spectrum Leasing Corp.* v. *United States*, 764 F.2d 891, 894 (D.C. Cir. 1985). The ultimate source of the grantees' asserted right to payment is the grant awards, not the grantmaking statutes or grant-termination regulations that respondents claim the government violated. See *Catholic Bishops*, 2025 WL 763738, at *5-*6 (applying *Ingersoll-Rand* and *Spectrum*).

The district court barely engaged with this fatal jurisdictional defect "before plowing ahead" with its order. *AIDS Vaccine*, 145 S. Ct. at 756 (Alito, J., dissenting from denial of application to vacate order). The principal authority for the court's jurisdictional determination was a days-old, distinguishable district-court decision that involved a challenge to a single agency policy, rather than individual funding terminations. App., *infra*, 2a; see *Massachusetts* v. *National Insts. of Health*, No. 25-cv-10338, 2025 WL 702163, at *1 (D. Mass. Mar. 5, 2025) (granting a "nationwide preliminary injunction" against a new agency policy governing "indirect cost rates" for biomedical-research grants). Just a day later, in a case highly similar to this one (now pending before the D.C. Circuit), a district court reached the opposite conclusion. See *Catholic Bishops*, 2025 WL 763738.

When claims like respondents' are "[s]tripped of [their] equitable flair," the "requested relief seeks one thing: * * * the Court to order the Government to stop withholding the money due" under the TQP and SEED grants. *Catholic Bishops*, 2025 WL 763738, at *5. "In even plainer English: [they] want[] the Government to keep paying up." *Ibid.* Such a claim for "the classic contractual remedy of specific performance" "must be resolved by the Claims Court." *Ibid.* (citations omitted). The district court's order and the court of appeals' decision blatantly override those basic principles, undermining the United States' sovereign immunity and Congress's carefully designed jurisdictional scheme.

2. Other defects in the district court's overbroad order independently warrant review

The district court's order is rife with other errors that would warrant this Court's intervention—errors that should have precluded plainly overbroad relief for flawed APA claims.

a. **APA Preclusion for Discretionary Decisions.** Even were respondents' claims reviewable under the APA, not the Tucker Act, the APA itself would have precluded arbitrary-and-capricious review of the grant terminations. Such terminations are quintessential agency actions "committed to agency discretion by law," for which the APA does not provide an avenue for review. 5 U.S.C. 701(a)(2). An agency's determination of how to allot appropriated funds among competing priorities and recipients is classic discretionary agency action that is not susceptible to arbitrary-and-capricious APA review. See *Lincoln* v. *Vigil*, 508 U.S. 182, 193 (1993).

In *Lincoln*, for instance, this Court held that the Indian Health Service's decision to discontinue a program it had previously funded and to instead reallocate those funds to other programs was committed to agency discretion by law and thus not

reviewable under the APA. See 508 U.S. at 185-188, 193. The Court explained that the "allocation of funds from a lump-sum appropriation" is an "administrative decision traditionally regarded as committed to agency discretion," because the "very point of a lump-sum appropriation is to give an agency the capacity to adapt to changing circumstances and meet its statutory responsibilities in what it sees as the most effective or desirable way." *Id.* at 192. "[A]n agency's allocation of funds from a lump-sum appropriation requires 'a complicated balancing of a number of factors which are peculiarly within its expertise': whether its 'resources are best spent' on one program or another; whether it 'is likely to succeed' in fulfilling its statutory mandate; whether a particular program 'best fits the agency's overall policies'; and, 'indeed, whether the agency has enough resources' to fund a program 'at all.'" *Id.* at 193 (quoting *Heckler* v. *Chaney*, 470 U.S. 821, 831 (1985)). "Of course," such discretion is not unbounded, because "an agency is not free simply to disregard statutory responsibilities: Congress may always circumscribe agency discretion to allocate resources by putting restrictions in the operative statutes." *Ibid.* But as long as the agency abides by the relevant statutes (and whatever self-imposed obligations may arise from regulations or grant instruments), the APA "gives the courts no leave to intrude" via arbitrary-and-capricious review. *Ibid.*

Although *Lincoln* involved lump-sum appropriations, its logic extends to funding programs that leave to the agency "the decision about how the moneys" for a particular program "could best be distributed consistent with" the governing statute. *Milk Train, Inc.* v. *Veneman*, 310 F.3d 747, 751 (D.C. Cir. 2002). Such decisions—like decisions regarding how best to allocate lump-sum appropriations—"clearly require[] 'a complicated balancing of a number of factors which are peculiarly within [the agency's] expertise.'" *Id.* at 752 (citation omitted); see *Policy & Research, LLC*

v. *United States Dep't of Health & Human Servs.*, 313 F. Supp. 3d 62, 75-76 (D.D.C. 2018) (Jackson, J.).

That discretion-laden calculus applies to the grant programs at issue in this case. Congress has charged the Department of Education with deciding how best to allocate appropriated funds across grant applicants. For TQP grants, the statute provides simply that "the Secretary is *authorized* to award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out" certain activities, including "a program for the preparation of teachers," a "teaching residency program," and "a leadership development program." 20 U.S.C. 1022a(a) and (c)(1) (emphasis added). That is a paradigmatic grant of discretion to the agency. See *Heckler* v. *Chaney*, 470 U.S. at 835 (statute "framed in the permissive" did not enable arbitrary-and-capricious review). Similarly, the SEED grant statute directs the Secretary to award grants ("shall award"), but gives the Secretary extensive discretion to decide which grants to award for myriad alternative "purposes," such as "providing evidence-based professional development activities" or "making freely available services and learning opportunities to local educational agencies." 20 U.S.C. 6672(a); see *Southern Research Inst.* v. *Griffin Corp.*, 938 F.2d 1249, 1254 (11th Cir. 1991) (statute establishing "general directives" about allocating benefits does not enable arbitrary-and-capricious review) (citation omitted). Under both programs, there is no meaningful standard for a court to apply in reviewing the Secretary's exercise of her broad discretion within the outer bounds of those "permissible statutory objectives." *Lincoln*, 508 U.S. at 193.

Neither of the lower courts grappled with that problem, even though both reached only respondents' arbitrary-and-capricious claim. App., *infra*, 4a-6a & n.3, 29a-33a. The district court paid no attention to this established limit on the APA's

scope, and the court of appeals offered little more. That court simply cited the statutes discussed above (as well as a regulation broadly authorizing grant terminations for inconsistency with agency priorities, 2 C.F.R. 200.340) and described them, without explanation, as working to "cabin the Department's discretion as to when it can terminate existing grants." App., *infra*, 28a-29a. That was error. Far from undermining the Department's discretion to terminate grants, those provisions exude deference to the Department. And even supposing they did appreciably cabin the agency's discretion, neither the district court nor the court of appeals based its decision on violations of those provisions—the courts found only that the grant terminations were likely arbitrary and capricious. App., *infra*, 4a-6a & n.3, 29a-33a. Any minimal statutory or regulatory constraints on the Department's grant decisions do not provide a basis to subject those decisions to the APA's reasoned-decisionmaking requirements. See *Lincoln*, 508 U.S. at 193.

b. **Overbroad Relief.** Even setting aside the district court's lack of jurisdiction to enter the TRO and its errors on the merits, this Court could vacate much of the TRO for a threshold reason: the TRO grants relief to all TQP and SEED grantees in respondents' States, not simply to respondents themselves. See *AIDS Vaccine*, 145 S. Ct. at 756 n.* (Alito, J., dissenting from denial of application to vacate order). The district court improperly extended relief to all "[grant] recipients in Plaintiff States," App., *infra*, 9a-10a, rather than limiting relief to the grants received by the actual plaintiffs—*i.e.*, the States or their instrumentalities. Respondents' complaint appears to identify several grant recipients that are *located* within the plaintiff States but are merely "affiliated" or "associated" with the State or that are local school districts, not clear state instrumentalities. D. Ct. Doc. 1, at 18-19, 23-24. Yet the district court simply granted relief to all of those grantees. Cf. App., *infra*, 3a n.2. Further,

the court's order extends to *all* grantees within the plaintiff States, even private-school grantees who simply operate there.

The district court's order thus plainly violates the constitutional and equitable principle that relief must be limited to redressing the specific plaintiff's injury. See *Gill* v. *Whitford*, 585 U.S. 48, 66 (2018); *Califano* v. *Yamasaki*, 442 U.S. 682, 702 (1979). As Members of this Court have recognized, such broad remedies exceed "the power of Article III courts," conflict with "longstanding limits on equitable relief," and impose a severe "toll on the federal court system." *Trump* v. *Hawaii*, 585 U.S. 667, 713 (2018) (Thomas, J., concurring); see *DHS* v. *New York*, 140 S. Ct. 599, 599-601 (2020) (Gorsuch, J., concurring in the grant of stay). But the court of appeals blithely brushed such concerns aside, simply deeming it "premature to address the adequacy of the district court's explanation" for the scope of its order. App., *infra*, 36a.

Compounding the problem, the district court ordered relief beyond redressing the specific harm it had identified. "[A] court must tailor equitable relief to redress the [plaintiffs'] alleged injuries without burdening the defendant more than necessary." *Department of Educ.* v. *Louisiana*, 603 U.S. 866, 873 (2024) (Sotomayor, J., dissenting in part from denial of applications for stays) (citing *Madsen* v. *Women's Health Ctr., Inc.*, 512 U.S. 753, 765 (1994), and *Yamasaki*, 442 U.S. at 702). Here, the only legal violation the court identified was that the termination letters purportedly lacked adequate explanation. If so, the proper remedy would, at most, prevent the Department from relying on those termination letters absent further explanation. Cf. *DHS* v. *Regents of the Univ. of Cal.*, 591 U.S. 1, 20 (2020) (court may remand to agency for fuller explanation).

Here again, the court of appeals side-stepped the problem, noting that the government had not "claim[ed] that it plans" to reinstate grant terminations before the

forthcoming March 28 preliminary-injunction hearing. App., *infra*, 36a. Yet the district court expressly *enjoined* the government from "reinstating under a different name the termination" of the covered awards, *id.* at 9a—while also confusingly stating that the government may "terminat[e] any individual" grants if those terminations are "consistent with the Congressional authorization and appropriations, relevant federal statute, including the requirements of the APA, the requirements of the relevant implementing regulations, the grant terms and conditions, and this Court's Order," *id.* at 10a. Nothing about the district court's merits analysis can justify that relief. Cf. *AIDS Vaccine Advocacy Coal.* v. *United States Dep't of State*, No. 25-cv-400, 2025 WL 752378, at *11-*13 (D.D.C. Mar. 10, 2025) (rejecting an argument that an agency had improperly acted by individually terminating contracts and grants after the court had enjoined the agency's original categorical freeze). At a minimum, therefore, the government is likely to succeed on its challenge to the district court's order in substantial part.[2]

B. The District Court's Order Is Appealable

The order's styling as a "TRO" does not preclude the government from seeking appellate relief. See *AIDS Vaccine*, 145 S. Ct. at 754 (Alito, J., dissenting from denial of application to vacate order). For all its opinion's faults, the court of appeals did not disagree; although it merely "assume[d]" appealability here, App., *infra*, 24a, it issued a full opinion on the government's stay motion, addressing the merits and equities. The First Circuit's assumption was correct.

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[2] The courts below aggravated their errors by concluding that the Department's grant terminations were likely unlawful under the APA's deferential arbitrary-and-capricious standard. App., *infra*, 4a-6a, 29a-32a; see 5 U.S.C. 706(2)(A). Although this Court need not address that issue at this stage, and we do not press the point for purposes of this application, the lower courts' reasoning was incorrect. See Gov't C.A. Stay Mot. 15-17.

1. The courts of appeals have jurisdiction over appeals from district-court orders granting "injunctions." 28 U.S.C. 1292(a)(1); see also 28 U.S.C. 1254(1) (granting this Court jurisdiction over "[c]ases in the court of appeals"). The fact that the district court labeled its March 10 order as a TRO rather than a preliminary injunction should not preclude the government from obtaining relief. The "label attached to an order is not dispositive." *Abbott* v. *Perez*, 585 U.S. 579, 594 (2018). Instead, "where an order has the 'practical effect' of granting or denying an injunction, it should be treated as such for purposes of appellate jurisdiction." *Ibid.* (citation omitted). Otherwise, a district court could "shield its orders from appellate review merely by designating them as temporary restraining orders, rather than as preliminary injunctions," and thereby "would have virtually unlimited authority over the parties in an injunctive proceeding." *Sampson* v. *Murray*, 415 U.S. 61, 86-87 (1974).

Even as the district court labeled its order as a TRO, the court openly equated the two forms of relief. App., *infra*, 3a, 8a & n.4. Rather than maintain the status quo—under which the relevant TQP and SEED grants had already been terminated for about a month before respondents' suit was filed—the court's order directed the government to reactivate the grants and make funds available "effective immediately." *Id.* at 10a; see *ibid.* (barring the government from "implementing, giving effect to, maintaining, or reinstating" the terminations, including through "suspension or withholding of any funds approved and obligated for the grants"). It would be especially anomalous not to treat the order at issue as an appealable injunction when, as here, "an adversary hearing has been held, and the court's basis for issuing the order strongly challenged." *Sampson*, 415 U.S. at 87.

2. Even if the district court's order were not directly appealable, the government asked the court of appeals, in the alternative, to treat its appeal and stay

motion as a petition for a writ of mandamus. Gov't C.A. Stay Mot. 8-9. The district court's extraordinary order—requiring immediate compliance, misapplying the APA in multiple respects, and sweeping more broadly than necessary—readily satisfies the mandamus standard. See *Cheney* v. *United States Dist. Ct. for D.C.*, 542 U.S. 367, 380-381 (2004). If the government could not directly challenge the district court's order, it would have "no other adequate means to attain the relief [it] desires." *Id.* at 380 (citation omitted). The government's right to relief is also "clear and indisputable" in light of the district court's multiple errors on jurisdictional and merits questions. *Id.* at 381 (citation omitted). And mandamus is "appropriate under the circumstances" because the district court's actions "threaten the separation of powers" by usurping lawful Executive Branch prerogatives. *Ibid.*

C. The Other Stay Factors Support Vacating the Order

The emergency-relief calculus also includes whether the underlying issues warrant this Court's review, whether the applicant likely faces irreparable harm, and, in close cases, the balance of equities. See *Hollingsworth*, 558 U.S. at 190. Here too, each factor overwhelmingly supports relief.

1. This Court would likely grant certiorari

For starters, the issues presented in this case are worthy of this Court's review under its traditional certiorari criteria. See *John Does 1-3* v. *Mills*, 142 S. Ct. 17, 18 (2021) (Barrett, J., concurring in denial of application for injunctive relief); Sup. Ct. R. 10. The district court directed a federal agency and its leadership to immediately make available millions of dollars to fund programs that, the agency has determined, are inconsistent with the government's objectives. The court did so in an order that masqueraded as an unappealable TRO and failed to heed the limits on the APA's waiver of the government's sovereign immunity.

That is a remarkable intrusion on the operations of the Executive Branch, and the kind of judicial action that this Court has routinely decided to review. See, *e.g.*, *Heckler* v. *Lopez*, 463 U.S. 1328, 1329 (1983) (Rehnquist, J., in chambers) (granting stay of district court order requiring Secretary of Health and Human Services "immediately to reinstate benefits to the applicants" and mandating that the Secretary then make certain showings "before terminating benefits"); cf. *Trump* v. *Sierra Club*, 140 S. Ct. 1 (2019) (granting stay of district court order enjoining the Department of Defense from undertaking any border-wall construction using funding the Acting Secretary transferred pursuant to statutory authority); *INS* v. *Legalization Assistance Project*, 510 U.S. 1301, 1305-1306 (1993) (O'Connor, J., in chambers) (granting stay of district court order requiring INS to engage in certain immigration procedures, as "an improper intrusion by a federal court into the workings of a coordinate branch of the Government"). In particular, as discussed above, the court of appeals' analysis of the APA jurisdictional issue conflicts with a series of decisions of the D.C. Circuit dating back decades.

Indeed, four Members of this Court recently observed that both "[c]larification of the standards for distinguishing between a TRO and a preliminary injunction" and "the scope of the APA's waiver of sovereign immunity" are matters "that deserve[] this Court's attention at the present time." *AIDS Vaccine*, 145 S. Ct. at 755 n.* (Alito, J., dissenting from denial of application to vacate order). This case squarely presents both issues and is worthy of certiorari by the same token.

2. This order irreparably harms the Executive Branch

The government is being significantly and irreparably harmed by the district court's order. Above and beyond the obvious harms to the President's ability to execute core Executive Branch policies, the order to open the funding spigots irreparably

harms the public fisc. The order required the government to reinstate the access of grantees (even nonplaintiff grantees) to TQP and SEED funds effective "immediately" and "enjoined" the government from re-terminating those grants in any way, despite the Department's determination that the terminated grants promote harmful DEI practices. App., *infra*, 9a. Under the court's order, grantees in the plaintiff States are free (and are "strongly incentivized") to draw from "the $65 million still outstanding under their awards." *Id.* at 14a; see *id.* at 14a-15a. The government has a strong interest in safeguarding the public fisc, see *Mathews* v. *Eldridge*, 424 U.S. 319, 348 (1976), as well as "a fundamental, overriding interest in eradicating racial discrimination in education," *Bob Jones Univ.* v. *United States*, 461 U.S. 574, 604 (1983), an interest that can be thwarted by DEI programs, see *Students for Fair Admissions, Inc.* v. *President & Fellows of Harvard Coll.*, 600 U.S. 181, 261 (2023) (Thomas, J., concurring). Every day that the district court's order is in effect, those important governmental interests are being palpably frustrated.

Even as it dismissed the government's concerns in this regard as "speculation and hyperbole," the court of appeals admitted that the government "may incur some irreparable harm if it cannot recoup this money." App., *infra*, 33a-34a. But it insisted that the government "ha[d] not yet shown that recoupment is implausible." *Id.* at 34a. As the government informed the district court, however, through the affidavit of the Department's chief of staff, "[o]nce funds leave the Department and go to grantees, the Department has limited ability to recover those disbursed funds." *Id.* at 15a. "Nor has any grantee promised to return withdrawn funds should its grant termination be reinstated—exacerbating the significant risk that substantial taxpayer dollars will be lost forever due to the Court's order absent emergency relief." *Ibid.* The court of appeals did not explain why it is better positioned than the Department itself

to assess these risks of harm. And the loss of likely unrecoverable funds is a classic injury supporting interim relief for the government. See *Turner*, 468 U.S. at 1307-1308 (Rehnquist, J., in chambers) (prospect of the government being forced to make $1.3 million in improper payments per month supported a stay); see also *AIDS Vaccine*, 145 S. Ct. at 757 (Alito, J., dissenting from denial of application to vacate order).

The district court dismissed those harms on the theory that its TRO would merely compel the government "to disburse funds that Congress has appropriated to the States and others." App., *infra*, 9a (citation omitted). But Congress appropriated the funds at issue here to the *Secretary*, for her to award as grants to eligible entities as authorized by statute. See 22 U.S.C. 1022a(a), 1022h, 6672(a). The court's theory was revealing for its elision of the Executive Branch's lawful discretion over the disbursement of the TQP and SEED grant funds.

The court of appeals also downplayed the risks of harm by stating that TQP and SEED grant recipients "submit reimbursement requests for expenses already incurred." App., *infra*, 33a. But lost money is lost money; the disbursement of *any* such funds injures the government, since respondents and the other covered grantees have no entitlement to those funds at all once the grants are terminated. Furthermore, applicable regulations generally entitle grantees to "be paid in advance," provided the payments are made "as close as is administratively feasible to the actual disbursements by the [recipient]." 2 C.F.R. 200.305(b)(1). Respondents have insisted that the regulations prevent unnecessarily large drawdowns, but respondents are States, not the actual grantees that will be making drawdown requests in light of their experience with the regulations' operation. At the very least, the district court should have clarified the government's ability to invoke those protective measures—but has refused to do so. See App., *infra*, 9a (enjoining the government from "suspension or

withholding of any funds approved and obligated for the grants").

3. Vacatur would not irreparably harm respondents

Respondents, by contrast, would not be irreparably harmed by vacatur of the district court's order. They have no cognizable interest in receiving federal funds to which they are not legally entitled or on a timeline that is not legally compelled. The district court largely overlooked that respondents' claimed harms are monetary and that, if they ultimately prevail, they will receive the funds to the extent required by law. See *Turner*, 468 U.S. at 1308 (Rehnquist, J., in chambers); *Dennis Melancon, Inc.* v. *City of New Orleans*, 703 F.3d 262, 279 (5th Cir. 2012) (the "possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm") (brackets and citation omitted), cert. denied, 569 U.S. 994 (2013). In the meantime, respondents have never claimed that they lack the ability to front the money for the training programs covered by the grants. Indeed, they have suggested the opposite—stating that "the [p]laintiff States' own institutions would be required to expend public funds to conduct that training" in the meantime. Resp. C.A. Opp. 20.

Furthermore, respondents' own "delay * * * vitiates much of the force of their allegations of irreparable harm." *Beame* v. *Friends of the Earth*, 434 U.S. 1310, 1313 (1977) (Marshall, J., in chambers). Respondents waited nearly a month after the grant terminations to file suit and seek a TRO from the district court. Their only defense of that delay is a generalized reference to a need to "gather facts" and "investigat[e]" before filing suit, Resp. C.A. Opp. 9, 23, which hardly supports a need for relief so immediate that the district court must order the government to release funds within a matter of days.

D. This Court Should Grant An Administrative Stay

At a minimum, the Acting Solicitor General respectfully requests that this Court grant an administrative stay while it considers the government's submission. The government has been complying with the district court's flawed order. But, by complying, the government has perversely incentivized TQP and SEED grantees to draw upon federal grants to which they are not entitled, which the government has attempted to terminate, and which these grantees have every incentive to draw down swiftly. With scant explanation, the district court denied the government's motion for a stay pending appeal. The court of appeals has done the same, after taking seven days to issue its ruling. And now the district court has extended its TRO for up to two weeks. In these circumstances, an administrative stay is warranted while this Court assesses the government's entitlement to vacatur.

CONCLUSION

This Court should vacate the district court's order of March 10, 2025, granting respondents' motion for a temporary restraining order, as extended by that court on March 24. In addition, the Acting Solicitor General respectfully requests an immediate administrative stay of the district court's order pending the Court's consideration of this application.

Respectfully submitted.

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