

App No. _____

In the Supreme Court of the United States

RIO GRANDE FOUNDATION,

Applicant

v.

MAGGIE TOULOUSE OLIVER,
in her official capacity as
New Mexico Secretary of State,

Respondent

**On Application for an Extension of Time to File a Petition for a Writ of
Certiorari to the United States Court of Appeals for the Tenth Circuit**

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Corporate Disclosure Statement

Pursuant to Supreme Court Rule 29.6, Applicant Rio Grande Foundation states that it is not a subsidiary or affiliate of a publicly traded corporation, and no public corporation has a financial interest in the outcome of this matter.

To the Honorable Neil M. Gorsuch, as Circuit Justice for the United States Court of Appeals for the Tenth Circuit:

Pursuant to Rules 13.5, 22, 30.2, and 30.3, Applicant Rio Grande Foundation respectfully requests that the time to file its petition for a writ of certiorari be extended for 60 days, up to and including May 29, 2026. The Court of Appeals issued its opinion on September 9, 2025, and denied a timely filed motion for rehearing en banc on December 30, 2025 (Exhibit A). Absent an extension of time, the petition would be due on March 30, 2026. The jurisdiction of this Court is based on 28 U.S.C. 1254(1). This request for an extension of time is unopposed.

Background

This is a campaign finance case involving donor disclosure of a nonprofit engaged in pure issue advocacy.

The New Mexico Campaign Reporting Act (“the Act”) requires the disclosure of donors to any person who runs ads that merely mention a candidate or ballot initiative without advocating for or against that candidate or ballot initiative. *See* N.M. Stat. Ann. §§ 1-19-26(Q)(3)(c) (“Section (3)(c)”), 1-19-27.3.

The Act requires any person making independent expenditures or aggregated independent expenditures during an election cycle that exceeds \$1,000 in a non-statewide election or \$3,000 in a statewide election to report who they are, the purpose of the independent expenditure, and—relevant to this case—the donor(s) of the money used to fund the independent expenditure. N.M. Stat. Ann. §§ 1-19-27.3(A)(1), (B). And the Act requires the person making the independent

expenditure to report “the name and address of each person who has made contributions of more than a total of two hundred dollars (\$200) in the election cycle that were earmarked or made in response to a solicitation to fund independent expenditures,” N.M. Stat. Ann. §§ 1-19-27.3(C), or “report the name and address of, and amount of each contribution made by, each contributor who contributed more than a total of five thousand dollars (\$5,000) during the election cycle” if the independent expenditure was not from an earmarked contributions or expressly prohibited from use as an independent expenditure by the donor. N.M. Stat. Ann. §§ 1-19-27.3(D).

The Act defines an “expenditure” as “a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign or pre-primary convention.” N.M. Stat. Ann. § 1-19-26(P). The term “political purpose” under the Act “means for the purpose of supporting or opposing a ballot question or the nomination or election of a candidate.” N.M. Stat. Ann. § 1-19-26(W).

An “independent expenditure” is an expenditure that is (1) “made by someone other than a candidate or campaign committee;” (2) “not a coordinated expenditure” as defined in the Act; and (3) “made to pay for an advertisement that:”

- (a) expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;

- (b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or
- (c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot question is on the ballot.

N.M. Stat. Ann. § 1-19-26(Q). It the last part of this definition—Section(3)(c)—that is at issue in this case and the disclosure regime it triggers.

Appellant Rio Grande Foundation (“RGF”) is a New Mexico 501(c)(3) nonprofit dedicated to increasing liberty and prosperity for all of New Mexico’s citizens. RGF engages in issue advocacy around topics central to its mission and publishes a “Freedom Index” that tracks legislators’ votes on issues that are important to RGF.

RGF planned to mail its Freedom Index—which would have named incumbent legislators and provided information on the legislators’ votes and a score—to thousands of New Mexico voters within 60 days of the November 2020 general election. It did not do so because of New Mexico’s donor disclosure requirements—specifically Section (3)(c), that RGF’s Freedom Index would be subject to if mailed within 60 days of a general election. RGF wants to engage in substantially similar issue speech in future New Mexico elections, but it will not because of Section (3)(c).

RGF fears that if its donors are disclosed, those donors may be subject to retaliation and harassment by intolerant members of society or some donors may stop contributing out of fear of such retaliation and harassment. And because RGF

believes the disclosure law does not serve a government interest or is properly tailored, it brought a First Amendment challenge against the law.

The district court held the law was constitutional upon summary judgment. *Rio Grande Found. v. Oliver*, 154 F.4th 1213, 1220 (10th Cir. 2025). A divided panel at the Tenth Circuit held that the law passed exacting scrutiny. *Id.* at 1224–30. Chief Judge Hartz reluctantly joined the majority. *See id.* at 1230-31 (Hartz, C.J., concurring). Judge Eid dissented. *See id.* at 1231-36 (Eid, J., dissenting). A petition for rehearing *en banc* was denied. *See* 2025 WL 3763427.

RGF maintains that the donor disclosure law neither serves the government’s informational interest nor is properly tailored for that purported interest under *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595 (2021). The law also fails First Amendment strict scrutiny.

Reasons for Granting an Extension of Time

Counsel for Applicant need additional time due their preoccupation with other matters including *Burlap and Barrel, Inc., et al. v. Trump, et al.* (Court of Int’l Trade No. 26-cv-1606) (challenge to the President’s tariffs under Section 122 in the wake of this Court’s opinion in *Learning Res., Inc. v. Trump*, Nos. 24-1287, 25-250, 607 U.S. ___ (2026) holding that IEEPA does not authorize the President to issue tariffs)¹; *Levine v. Association of Legal Aid Attorneys, et al.* (2nd Cir. No. 25-1846); *Johnson v. Jacobson* (8th Cir. No. 25-3036); *California Policy Center, Inc. v. Garcia-*

¹ Counsel for Applicant was also counsel for the small business plaintiffs in *Learning Res., Inc. v. Trump* before this Court.

Brower (9th Circuit, No. 25-6173), and *Nebraska Firearms Owners Assoc., et al. v. City of Lincoln* (Lancaster Co. Dist. Court No. 25-1554).

Conclusion

Applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 60 days to and including May 29, 2026.

Dated this 17th date of March 2026.

Respectfully submitted,

/s/ Jeffrey Schwab

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