No. 25A269

In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., APPLICANTS,

v.

GLOBAL HEALTH COUNCIL, ET AL.

UNITED STATES DEPARTMENT OF STATE, ET AL., APPLICANTS,

v.

AIDS VACCINE ADVOCACY COALITION, ET AL.

ON APPLICATION FOR AN ADMINISTRATIVE STAY OF THE INJUNCTION ISSUED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

OPPOSITION TO REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY

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Respondents will oppose the government's stay application within the timeframe directed by the Court, but file this brief opposition to the government's request for an administrative stay.

The injunction on appeal relates principally to the Further Consolidated Appropriations Act of 2024, in which Congress directed that certain foreign-assistance appropriations "shall be made available" by September 30, after which the funds will expire. The district court's injunction requires the government to do only that. The court made clear that the government need not obligate any funds until September 30, and even then, the government need not obligate funds if "Congress rescinds the relevant appropriation through duly enacted legislation." Appl. App. 219a. There is no irreparable harm that the government will suffer in the brief period while this Court considers the stay application. Conversely, an administrative stay may effectively moot this appeal and result in the impoundment of billions of dollars in funds, given the government's representations that immediate preparatory steps are necessary to be able to obligate funds by the deadline.

The Court should deny the government's request for an administrative stay.

ARGUMENT

1. An administrative stay is unnecessary because there is sufficient time for this Court to resolve the government's stay application in an orderly fashion without causing any irreparable harm to the government. To start, the government is incorrect (at 23, 28) that the injunction interferes with "interbranch dialogue" because the President has submitted a special message to Congress proposing the rescission of some (but not all) of the relevant funds. "[N]othing in the injunction precludes Congress from reviewing the

proposed rescission," and nothing in the injunction requires the government to obligate any funds until the close of September 30, at which point Congress' opportunity to rescind the funds will have ended (because Congress cannot rescind expired funds). Appl. App. 225a. And because the injunction does not require the obligation of funds until September 30, there is no risk that the government will irrevocably lose funds while this Court considers the stay application. App. 34. Instead, for now, the injunction requires only that the government take the steps necessary to be able to obligate the funds by September 30, *if* Congress has not enacted rescission legislation before then.

The government will suffer no irreparable harm from taking preparatory steps during the brief period while the Court considers its stay application. For example, although the government contends that the injunction forces it to engage in "direct negotiation" "with foreign states," Appl. 35, neither the injunction nor the appropriations acts require the government to use such agreements to obligate funds. There is also no prospect of the district court "superimpos[ing]" its "view of impoundment obligations … on the political branches" while the stay application is considered. Appl. 24. To the contrary, the district court made clear that the government "retains the discretion to determine *how* those funds are spent"; the injunction merely addresses "whether" the funds must be spent in the amounts that Congress directed for various purposes. Appl. App. 216a.

Finally, although the government claims that it faces an "emergency" in having to move quickly to obligate funds, that is "a circumstance of their own creation." A38 n.9. USAID and the State Department have been under a duty to obligate these funds since at least March 2024, when Congress enacted the appropriations; they chose not to act sooner.

The government faces no cognizable harm from having to take steps to comply with the law for the short period while this Court considers its stay application.

2. On the other hand, even a brief administrative stay could effectively resolve this case in the government's favor without giving this Court a chance to decide whether the extraordinary remedy of a stay pending appeal is warranted. The government has repeatedly stated that, to obligate funds by September 30, the agencies must begin preparatory steps immediately. See, *e.g.*, Aug. 25 Decl. of Jeremy Lewin, C.A. Doc. 2133544 at A52 (estimating a "deadline" of "September 2"); Appl. 35. An administrative stay would further delay these preparatory steps, such that even if this Court ultimately denies a stay, the government may claim that it has no time to obligate the funds consistent with Congress's specified purposes. And respondents have introduced "unrebutted evidence" that, if these funds lapse before the government obligates them consistent with those specified purposes, it "will result in massive harms to their organizations," some of which depend almost entirely on these foreign assistance funds to sustain their businesses. Appl. App. 225a. These irreparable harms far outweigh any short-duration burden on the government of taking preparatory steps to obligate funds that Congress mandated spending eighteen months ago.

3. Respondents will address the merits in their full response to the government's stay application. But an administrative stay would be particularly inappropriate because the government cannot make anything approaching a "strong showing" on the merits. *Nken* v. *Holder*, 556 U.S. 418, 426 (2009). It is well-established that appropriations laws mandate that the Executive Branch spend "the full amount appropriated by Congress for a

particular project or program." *In re Aiken Cnty.*, 725 F.3d 255, 261 n.1 (D.C. Cir. 2013) (Kavanaugh, J.). Congress used especially clear mandatory language here, providing that "specifically designated" amounts of money—or "not less than" specific amounts of money—"shall be made available" by USAID and the State Department for specific purposes by September 30. Pub. L. No. 118-47, §§ 7019(a), 7030-7060, 138 Stat. 460, 740-749, 780-841 (2024).

Further, the Impoundment Control Act (ICA) does not, as the government claims, preclude respondents from challenging violations of the 2024 Appropriations Act or provide a defense to its mandatory language. This Court long ago established that private plaintiffs may bring APA claims to enforce appropriations acts, see *Train* v. *City of New York*, 420 U.S. 35 (1975), and the ICA provides that "[n]othing contained in this Act … affect[s] in any way the claims … of any party to litigation concerning any impoundment," 2 U.S.C. § 681(3). The government argues that the President's submission of a special message relieves them of their duty to obligate appropriations before they expire. But the ICA says the opposite: "Nothing contained in this Act … supersed[es] any provision of law which requires the obligation of budget authority." *Id.* § 681(4).

What's more, the government has stated that it does not intend for any "inter-branch" dialogue regarding the funds included in the special message. The submission of the special message is instead what the government has described as a "pocket rescission," which they believe allows them to let the appropriations expire without Congress taking action. As the Solicitor General told this Court just 13 days ago, the government's plan was to wait until less than 45 days before the funds expire to submit a special message, "propose

rescissions for the funds that are set to expire on September 30, 2025," and then "allow those funds to expire without obligation *if Congress does not act before that date*." Stay Appl. at 33, No. 25A227 (Aug. 26, 2025) (emphasis added); see also *id.* at 3, 10, 17, 33. The White House put it more starkly, claiming that "it doesn't matter" what Congress does. Jennifer Scholtes & Kyle Cheney, *White House declares $4.9B in foreign aid unilaterally canceled in end-run around Congress' funding power*, POLITICO (Aug. 29, 2025), https://bit.ly/4mLICwZ.

The government's theory that the agencies need not comply with enacted legislation mandating that they spend funds, because the President has unilaterally *proposed* legislation to rescind those statutory mandates, would fundamentally upend our constitutional structure. See *Clinton* v. *City of New York*, 524 U.S. 417 (1998). An outcome that consequential should not be effected by an administrative stay without full deliberation by this Court.

CONCLUSION

The Court should deny the government's request for an administrative stay and set a deadline for respondents to respond to the stay application.

Respectfully submitted.

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