U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

November 11, 2026

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Zeldin v. Climate United Fund, No. 26-589
Citibank, N.A. v. Climate United Fund, No. 26-594

Dear Mr. Harris:

The Coalition for Green Capital—one of five sets of separately represented respondents—has sought a 30-day extension of time to file its response to the government's petition for a writ of certiorari in No. 26-589 and to file its response to the private petition in No. 26-594. To ensure that the Court can hear these important cases this Term, the government respectfully opposes any extension beyond December 8, 2026, in both cases.

On August 4, 2026, the en banc D.C. Circuit affirmed a preliminary injunction requiring the government to continue performing grant agreements worth over $16 billion. The court of appeals reached that result notwithstanding two recent decisions by this Court holding that, under the Tucker Act, 28 U.S.C. 1491(a)(1), claims "'based on'" federal grants or "designed to enforce any 'obligation to pay money' pursuant to those grants" may be brought only in the Court of Federal Claims, not district court. *NIH* v. *American Public Health Ass'n*, 606 U.S. 998, 998 (2025) (quoting *Department of Educ.* v. *California*, 604 U.S. 650, 651 (2025) (per curiam)). As the government's petition explains, the Tucker Act and merits questions are important and warrant this Court's resolution. In particular, the Tucker Act question has spawned prolific disagreement in the lower courts and has already demanded this Court's intervention twice on the emergency docket. See 26-589 Pet. 29-31 & nn.5-6.

To provide the government and lower courts with clarity, it is vital that the Court resolve these cases this Term. Granting the requested extension to January 4, 2027, would delay the petitions' distribution to the February 19, 2027, conference and effectively prevent the Court from hearing the cases this Term absent expedited merits briefing. The generic "competing and preexisting professional commitments" and other justifications offered by the Coalition do not justify that delay in these circumstances.

In addition, the Coalition's unilateral request would be highly prejudicial given the parties' jointly negotiated scheduling agreement on which the government relied. The day after the D.C. Circuit's decision, counsel for respondent Power Forward Communities emailed the government and other respondents' counsel requesting to confer about "issues such as scheduling to avoid the

need for burdening the parties and courts with emergency filings." The government requested a joint proposal from all respondents to enable a timely decision on whether to seek emergency relief in this Court. Counsel responded:

> The Plaintiffs propose that the parties file a joint request to the Circuit to stay the mandate and maintain the administrative stay pending the timely filing of a cert petition and, if cert is granted, pending disposition of the case by the Supreme Court. We ask that the government agree not to seek any extension of the time to file the cert petition **to ensure that the Court may hear the case this term.**

(emphasis added).

The government accepted that proposal and filed an unopposed request to stay the court of appeals' mandate and maintain the existing administrative stay of the injunction pending this Court's review. The court of appeals granted that request. As agreed, the government did not seek an extension on its petition, which it filed on November 2, 2026.

Given the parties' discussion, the government understood respondents to agree on the need "to ensure that the Court may hear the case this term." Accordingly, when the government filed its petition without extension on November 2, it expected that respondents would likewise file their responses without extension (or with a minimal extension to the December cutoff). Absent respondents' agreement, the government would have filed its petition in early October to allow one 30-day extension on the responses before the cutoff.

Sincerely,

D. John Sauer
Solicitor General

cc: See Attached Service List

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