IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

STATE OF MARYLAND, *et al.*, *Plaintiffs*,	*	
v.	*	No. 1:25-cv-00748-JKB
UNITED STATES DEPARTMENT OF AGRICULTURE, *et al.*, *Defendants*.	*	

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PLAINTIFFS' SUPPLEMENTAL BRIEFING ON SCOPE OF RELIEF

Pursuant to the Court's March 21, 2025 order, ECF No. 97, Plaintiffs provide the following supplemental briefing regarding the proper scope of injunctive relief.

As outlined in Plaintiffs' Memorandum in Support of their Motion for a Stay and Preliminary Injunction ("PI Motion"), the Court should stay Defendants' unlawful Reductions-in-Force ("RIFs") in full, pursuant to 5 U.S.C. § 705 and the Court's equitable powers. *See* ECF No. 78-1 at 18-20. Enjoining the unlawful RIFs in their entirety, and not just in the Plaintiff States, is appropriate and necessary for two reasons specific to RIFs and the facts of this particular case. In particular, the Plaintiff States have established that the violations were not confined to the Plaintiff States, and that failure to enjoin the unlawful RIFs in their entirety will continue to impose harms on the Plaintiff States. *See Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 765 (1994) (ensuring that any relief granted should be "no more burdensome to the defendant[s] than

necessary to provide complete relief to the plaintiffs" (quoting *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979)).

1. At the outset, the Plaintiff States have established that the government violated the law not only in the Plaintiff States, but in non-Plaintiff States as well. Importantly, when an agency conducts a RIF, it must define the "competitive area" within which employees must compete for retention. 5 C.F.R. §351.402(a), (b). While an agency may define a competitive area to encompass only some organizational units or geographic locations, it can also define a competitive area to encompass the entire agency, without regard to geographic location. *See* 5 C.F.R. § 351.402(b). In unlawfully disregarding the RIF procedures, the Defendant Agencies failed to properly define the "competitive areas" for the RIFs. That alone is a basis to presume that the "competitive area" for each agency's unlawful RIF was the entire agency. And the evidence also confirms that Defendant Agencies conducted agency-wide RIFs: After receiving an order from OPM to terminate all probationary employees, Defendants used form letters to terminate probationary employees across offices and jurisdictions. *See, e.g.*, ECF 4-37 (IRS HR manager stating that the Chief Human Capital Officer of Treasury instructed her to "identify all probationary employees at the IRS and terminate all of them 'based on performance'" using form letters and gave similar orders to other components of Treasury).

Given that the competitive area for each Defendant's unlawful RIF was the entire Defendant Agency, each Defendant Agency should have provided notice to the States and local jurisdictions where *any* of those separations were to occur. *See* 5 U.S.C. § 3502(d)(3)(A) (requiring notice to states when 50 or more employees will be released from within a "competitive area"); 5 C.F.R. § 351.803(b) (same). But Defendant Agencies did not provide notice to any State,

notwithstanding that each Defendant Agency terminated 50 or more probationary employees. *See, e.g.*, ECF No. 52 (attaching illustrative declarations of the hundreds, and in some cases thousands, of probationary employees affected at each Defendant Agency). Plaintiff States have therefore established that the violations of the RIF statutes were not confined to the Plaintiff States and instead extended to every jurisdiction where probationary employees were terminated. Granting relief without regard to *where* the separations occurred is therefore consistent with the scope of the violation established.

2. Staying the unlawful RIFs in their entirety now—rather than just in the Plaintiff States—will ensure that the Plaintiff States are not forced to endure still more harms. Granting only partial relief from the unlawful RIFs at this juncture would mean staggered reinstatements, which threatens to sow further chaos and confusion and impose additional burdens on the Plaintiff States. Reinstating probationary employees in only some jurisdictions would mean that, in the next round of RIFs, which Defendants acknowledge are in the works,[1] Defendants will separate or retain employees who should not otherwise be separated or retained based on ranking criteria such as veteran's status or length of service. This will mean that a Plaintiff State may be required to provide rapid response services to individuals who are initially separated but later reinstated once all probationary employees are properly taken into account. The same Plaintiff State would then need to provide rapid response services to a different set of individuals who were initially retained but ultimately separated, once all probationary employees are properly taken into account. This

[1] Ex. 1, Memo. from Russel T. Vought, Dir., Off. of Mgmt, & Budget & Charles Ezell, Acting Dir., OPM, to Heads of Executive Dep'ts & Agencies (Feb. 26, 2025); Ex. 2, U.S. Department of Education Initiates Reduction in Force (Mar. 11, 2025).

will impose additional burdens on Plaintiff States' rapid response programs. The same holds true for the Plaintiff States' administration of unemployment benefits and social services. Plaintiff States will be required to process more claims for benefits and more claims for overpayments, increasing administrative burdens and backlogs. In other words, not providing uniform relief will continue to impose harms on the Plaintiff States.

Accordingly, to avoid any such confusion and harm during this litigation, this Court should grant uniform preliminary relief from the unlawful agency-wide RIFs to ensure that it can still provide complete relief at the end of the case. *See District of Columbia v. U.S. Dep't of Agriculture*, 444 F. Supp. 3d 1, 49-50 (D.D.C. 2020) ("[D]enial of nationwide relief at this preliminary stage could make it less likely that the plaintiffs get complete relief—that is, vacatur—in the end."); *see also* 5 U.S.C. § 706(2)(A) (requiring reviewing courts, on final judgment, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law").

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If this Court were to narrow the scope of relief, the Court should ensure that, at a bare minimum, the relief extends to all probationary employees whose residence or last duty station is within Plaintiff States. If notice was properly given then, at the very least, neighboring States would have been able to adequately perform rapid response efforts for residents in Plaintiff States who worked in non-Plaintiff States. *See* 29 U.S.C. § 2864(a)(2)(A)(i)(II); 20 C.F.R. §§ 682.302, 682.305. This could have mitigated the harms to the Plaintiff States. Although this alternative relief would not fully remedy the harms suffered by Plaintiff States for the reasons described above, preliminary relief that covers terminated employees who worked or lived within Plaintiff

States' borders would at least partially mitigate the administrative and financial harms suffered by the Plaintiff States.

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