

The Honorable Barbara J. Rothstein

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY,

KRISTI NOEM, in her official capacity as
Secretary of the U.S. Department of
Homeland Security,

FEDERAL EMERGENCY
MANAGEMENT AGENCY, and

DAVID RICHARDSON, in his official
capacity as the Senior Official Performing
the Duties of the FEMA Administrator,

Defendants.

NO. 2:25-cv-01401-BJR

FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. JURISDICTION AND VENUE 5

III. PARTIES..... 6

IV. ALLEGATIONS 7

 A. Congress Created the Shelter and Services Program to Reimburse Non-Federal Partners, Like Washington, for Providing Shelter to Noncitizen Migrants Released From DHS’s Custody..... 7

 1. Faced with significant need, Washington and local partners provided shelter and essential resources to newly arrived noncitizen migrants..... 7

 2. Congress created the Shelter and Services Program to ensure states, localities, and community organizations could meet the needs of noncitizen migrants, after their release from DHS custody 11

 3. FEMA awards Washington more than \$4 million in SSP funds to continue providing shelter and services to noncitizen migrants in Washington..... 14

 B. The Trump Administration Illegally Cut Funding Appropriated by Congress for the Shelter and Services Program 19

 1. President Trump directed DHS to eliminate federal funding from “Sanctuary Jurisdictions” 19

 2. Defendants imposed “special conditions” on grants made under the Shelter and Services Program before announcing the Program’s termination 22

 3. Defendants’ termination of the Shelter and Services Program irreparably harms Washington and its subrecipients 26

V. CLAIMS FOR RELIEF 26

VI. PRAYER FOR RELIEF 35

I. INTRODUCTION

1. The State of Washington brings this complaint for declaratory and injunctive relief in response to the Trump Administration’s unlawful wholesale termination of the Shelter and Services Program, a grant program established by Congress for the specific purpose of enabling non-Federal entities—like the State of Washington and its cities, counties, and non-profit partners—to provide shelter and essential services to the noncitizen migrants who settled in Washington after being processed and released by the U.S. Department of Homeland Security (DHS).

2. Washington recognizes the value of its immigrant residents and strives to “remain[] a place where the rights and dignity of all residents are maintained and protected,” regardless of immigration status. *See* Wash. Rev. Code § 43.17.425; Laws of 2019 ch. 440, E2SB 5497. These values were confirmed in practice between 2022 and 2024 when, cumulatively and consistent with national trends, more than 45,000 noncitizen migrants settled in Washington after they were processed and released by DHS.

3. For many of these newcomers, their arrival in Washington was the culmination of a long and traumatic journey that began when they were forced to flee persecution in their home countries and seek asylum in the United States. They arrived in Washington with few resources to their name, let alone stable shelter, and without access to federal support or even permission to earn a living. Unfortunately, Washington’s housing and homeless crisis response system was already over capacity at this time and stretched too thin to provide the kind of initial support that would not only meet the immediate needs of these newcomers but also allow them to find their bearings in their new home. Indeed, most of Washington’s emergency shelters were already being filled each night. Lacking better options, these noncitizen migrants sought shelter wherever they could find it, sometimes in informal encampments in King County, which may have provided a measure of stability but were an unsustainable option, particularly with winter fast approaching.

1 4. More resources and better coordination among service providers were
 2 desperately needed. Washington responded, launching the Washington Migrant and
 3 Asylum-Seeker Support Project in October 2024 to connect these newcomers with support and
 4 services and backing that program with more than \$25 million in state funding. Washington was
 5 joined in its humanitarian commitment by local governments, including King County and the
 6 City of Tukwila, and community organizations, like the Seattle-based shelter, Mary’s Place,
 7 which provided shelter space, educational and health programs, and other services to help ensure
 8 the basic needs of these new Washingtonians were met.

9 5. Congress also recognized that the cost of providing initial support to these
 10 newcomers was straining the budgets of non-Federal entities, including states like Washington.
 11 And it further acknowledged that expanding the shelter capacity of non-Federal entities was
 12 necessary and a far better option than needlessly detaining these newcomers—many of whom
 13 were seeking humanitarian protections—in overcrowded DHS detention facilities. In 2023,
 14 Congress responded to these concerns by creating the Shelter and Services Program (SSP) and
 15 appropriating federal funds “to support sheltering and related activities provided by non-Federal
 16 entities, . . . in support of relieving overcrowding in short-term holding facilities of U.S.
 17 Customs and Border Protection[.]” *See Consolidated Appropriations Act, 2023, Pub. L.*
 18 *No. 117-328, 136 STAT. 4730 (Dec. 29, 2022).*

19 6. Congress reauthorized the grant program in 2024, once again appropriating
 20 federal funds to help non-Federal partners, like state governments, provide shelter to those who
 21 had been processed and released by DHS—a population Congress understood necessarily
 22 included many people who entered into the United States without inspection. *See Pub. L.*
 23 *No. 118-47, 138 STAT. 597, 598 (March 23, 2024).*

24 7. In recognition of the promising but costly steps Washington and its local partners
 25 had taken to provide shelter to noncitizen migrants, as well as the continuing need for additional
 26 resources, the Federal Emergency Management Agency (FEMA) awarded Washington

1 \$4,039,516 in SSP funds to reimburse Washington and its local partners for the costs they had
2 already incurred and to increase their capacity to provide more of the same.

3 8. To date, Washington and its partners have neither requested nor received a single
4 dollar from that award.

5 9. Almost as soon as President Trump was sworn into office for his second term, he
6 began an all-out assault on grant programs that were distributing federal funds to recipients and
7 causes he dislikes. In particular, he directed DHS “to ensure that so-called ‘sanctuary’
8 jurisdictions . . . do not receive access to Federal funds” and to “[t]erminate” any grants
9 “providing Federal funding to non-governmental organizations supporting or providing services,
10 either directly or indirectly, to removable or illegal aliens[.]” Protecting the American People
11 Against Invasion, Exec. Order 14159 §§ 17, 19, 90 Fed. Reg. 8443, 8446-47 (Jan. 29, 2025).

12 10. Defendants took prompt action to carry out these directives against the Shelter
13 and Services Program.

14 11. First, on January 28, 2025, Secretary Kristi Noem directed DHS components to
15 place “on hold pending review” grant programs that “touch in any way on immigration,”
16 ostensibly out of a “concern[]” that these programs were funding “illegal activities,” like
17 “inducing” or “harboring . . . illegal aliens.” *See* Secretary Noem, Memorandum for Component
18 and Office Heads (Jan. 28, 2025). No “review” was necessary for the Shelter and Services
19 Program, however, Secretary Noem summarily ordered a hold on all funds administered under
20 that program.

21 12. Second, on February 10, 2025, Defendants quietly de-obligated approximately
22 \$885.2 million previously obligated for SSP awards in an effort to kneecap the whole program,
23 including the entire \$4,039,516 obligated for Washington’s SSP award. This behind-the-scenes
24 accounting maneuver signified that, in Defendants’ view, they no longer had legal obligations
25 under the Shelter and Services Program.
26

13. Third, on or about March 11, 2025, Defendants sent sham “notices” to SSP grant recipients, including Washington, alleging noncompliance with the terms of the SSP grant and stating that the recipients’ funding would be withheld until further notice. Defendants made vague reference to their “significant concerns that SSP funding” was “going to entities engaged in or facilitating illegal activities,” but provided no evidence to support their concerns about the Shelter and Services Program, generally, or Washington’s use of SSP funds, specifically. Instead, recipients were given 30 days to comply with onerous information requests—including a demand to provide the “names and contact information” for every individual who received services under the award—or 60 days to lodge an appeal with FEMA.

14. Fourth, and before either of FEMA’s deadlines had expired, Defendants notified SSP grant recipients on April 1, 2025, that the Shelter and Services Program had been officially terminated. Defendants’ termination notice made no mention of the “significant concerns” hinted at in the noncompliance letter but, rather, explained that they were terminating the Shelter and Services Program because the funds “provide[] support for illegal aliens,” which “is not consistent with DHS’s current priorities.”

15. When it authorized and appropriated funds to support the Shelter and Services Program, Congress could not have been clearer that these funds were intended “to support sheltering and related activities provided by non-Federal entities,” in order to “reliev[e] overcrowding” in U.S. Customs and Border Protection’s (CBP) short-term holding facilities. *See* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 STAT. 4730 (Dec. 29, 2022). Achieving that goal necessarily required providing support, in the form of emergency shelter and other essential services, for a population that was certain to include individuals who entered the United States without inspection, who Defendants derisively refer to as “illegal aliens.”

16. Defendants have made clear their disdain for noncitizen migrants, especially those who entered without inspection and seek humanitarian protection in the United States. Likewise, Defendants have made clear their opposition to jurisdictions, like Washington, that

1 protect the rights and dignity of all residents, regardless of immigration status, and leave the cost
 2 and responsibility of enforcing federal, civil immigration law to the federal government. And
 3 they have further made clear their view that neither should receive federal support of any kind.
 4 But Defendants' policy preference, no matter how much of a priority it might be for them, cannot
 5 override the policy priorities that Congress has expressed through statute.

6 17. Here, Congress' decision to authorize and fund the Shelter and Services Program
 7 provides a clear expression of its policy judgment to, in Defendants' verbiage, "provide[] support
 8 for illegal aliens" after their release by DHS.

9 18. Defendants had no lawful basis to override Congress' judgment or the plain
 10 purpose of its funding program and their actions to pause, withhold, and then terminate
 11 Washington's SSP grant violates the U.S. Constitution's Separation of Powers Doctrine, the
 12 Spending Clause, the Administrative Procedure Act, and is additionally *ultra vires*.

13 19. The Court must set aside Defendants' unlawful actions and compel the restoration
 14 of the Shelter and Services Program so that, consistent with Congress' wishes, non-Federal
 15 entities, like Washington, can continue supporting their new immigrant neighbors with shelter
 16 and essential services.

17 II. JURISDICTION AND VENUE

18 20. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
 19 1346(a)(2). The Court has further remedial authority under the Declaratory Judgment Act,
 20 28 U.S.C. §§ 2201(a) and 2202. Jurisdiction is also proper under the judicial review provisions
 21 of the Administrative Procedure Act, 5 U.S.C. § 702.

22 21. Venue is proper in the Western District of Washington under 28 U.S.C.
 23 §§ 1391(b)(2) and (e)(1). Defendants are United States officers, employees, and/or agencies sued
 24 in their official capacities. Plaintiff State of Washington is a resident of the Western District of
 25 Washington. Venue is appropriate in the Seattle Division because a substantial part of the events
 26 or omissions giving rise to this Complaint occurred and are continuing to occur within this

1 judicial division, including in King County, where the shelter and other services Washington
2 intended to support through its SSP grant were provided.

3 **III. PARTIES**

4 22. Plaintiff State of Washington, represented by and through its Attorney General,
5 Nicholas W. Brown, is a sovereign state of the United States of America. The Attorney General
6 is the chief legal adviser to the State. The Attorney General's powers and duties include acting
7 in federal court on behalf of the State on matters of public concern. Wash. Rev. Code
8 § 43.10.030(1); Wash. Const. art. III § 21.

9 23. Defendant U.S. Department of Homeland Security (DHS) is a federal agency
10 headquartered in Washington, D.C. DHS administers the Shelter and Services Program (SSP),
11 including the grant awarded to Washington under that program.

12 24. Defendant Kristi Noem is the Secretary of DHS and serves as that agency's
13 highest ranking official. She is charged with the supervision and management of all decisions
14 and actions of that agency, including decisions and actions concerning the Shelter and Services
15 Program. She is sued in her official capacity.

16 25. Defendant Federal Emergency Management Agency (FEMA) is a federal agency
17 within DHS that coordinates operational and logistical disaster response and administers many
18 of DHS's federal grant programs, including the Shelter and Services Program.

19 26. Defendant David Richardson is the Senior Official Performing the Duties of the
20 Administrator of FEMA and serves as FEMA's highest ranking official. He is sued in his official
21 capacity.

IV. ALLEGATIONS

A. Congress Created the Shelter and Services Program to Reimburse Non-Federal Partners, Like Washington, for Providing Shelter to Noncitizen Migrants Released From DHS's Custody

1. Faced with significant need, Washington and local partners provided shelter and essential resources to newly arrived noncitizen migrants

27. “Immigrants make a significant contribution to” the State of Washington and the State has, accordingly, enacted “policies that recognize” the importance of noncitizens to its economy and ensure that the state “remains a place where the rights and dignity of all residents,” regardless of their immigration status, “are maintained and protected.” Wash. Rev. Code § 43.17.425; Laws of 2019, ch. 440, § 1. It was with these values firmly in mind that, beginning in 2022, Washington welcomed tens of thousands of noncitizen migrants who settled in Washington after they were released from DHS custody near the southwest border.

28. The swell of noncitizen migrants settling in Washington was connected to broader migration trends that resulted in millions of individuals entering the United States through the southwest border between 2019 and 2024,¹ many of whom sought humanitarian protection, including asylum. Detaining everyone it encountered during this period would have stretched DHS resources well past the breaking point, threatening national security, and creating inhumane and dangerous conditions of confinement in the process.²

29. Accordingly, those individuals not subject to expedited removal were either transferred to another agency or released into the United States with instructions to appear at

¹ See generally U.S. Customs and Border Prot., Southwest Land Border Encounters (last visited September 19, 2025), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (detailing southwest land border encounters between 2022 and 2025 and collecting previous year statistics showing the same for Fiscal Years 2017 to 2022).

² See U.S. Dep’t of Homeland Sec., Off. of the Inspector Gen., *OIG-23-45, CBP Could Do More to Plan for Facilities Along the Southwest Border* at 14 (Aug. 29, 2023), <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-45-Aug23.pdf> (noting that Border Patrol has, at various points, exercised prosecutorial discretion authority to “release noncitizens without placing them in removal proceedings” when doing so is necessary “to mitigate operational challenges, including risks to national security”); U.S. Dep’t of Homeland Sec., Off. of the Inspector Gen., *OIG-19-46, Management Alert - DHS Needs to Address*

1 future immigration proceedings.³ Between 2019 and 2024, nearly 3 million individuals were
 2 released by U.S. Border Patrol with notices to appear or report, on their own recognizance, as an
 3 exercise of prosecutorial discretion, or as part of an alternative to detention or parole with
 4 conditions programs.⁴

5 30. Once released from DHS custody, “[t]he majority of migrants disperse from the
 6 border and travel by bus or plane to other areas typically away from their entry point.”⁵
 7 Cumulatively, more than 45,000 settled in Washington between 2022 and 2024.

8 31. Upon arrival, these newcomers faced numerous barriers to securing stable
 9 shelter. The long and expensive journey to Washington left many without much money. Some
 10 were also burdened by the trauma of the hardships that forced them to flee from their countries
 11 of birth. And, given their immigration status, most lacked access to federal support or
 12 employment authorization.

13
 14
 15 Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center
 16 (May 30, 2019), [https://www.oig.dhs.gov/sites/default/files/assets/Mga/2019/oig-19-46-may19-
 mgmtalert.pdf](https://www.oig.dhs.gov/sites/default/files/assets/Mga/2019/oig-19-46-may19-mgmtalert.pdf) (alerting DHS to “dangerous overcrowding” and reports that “detainees had been
 held in standing-room-only conditions for days or weeks”).

17 ³ CBP Could Do More to Plan for Facilities Along the Southwest Border, *supra* note 2
 18 at 1.

19 ⁴ U.S. Dep’t of Homeland Sec., Off. of Homeland Sec. Statistics, Immigr. Enf’t and Legal
 20 Processes Monthly Tables (Jan. 16, 2025), [https://ohss.dhs.gov/topics/immigration/
 immigration-enforcement/monthly-tables](https://ohss.dhs.gov/topics/immigration/immigration-enforcement/monthly-tables) (Yearly Southwest Border Book-outs by Calendar
 21 Year); *see also* Elizabeth M. Webster and Audrey Singer, Congressional Research Service,
 22 R47681, FEMA Assistance for Migrants Through the Emergency Food and Shelter Program-
 23 Humanitarian (EFSP-H) and Shelter and Services Program (SSP) at 4-5 (Aug. 31, 2023),
<https://www.congress.gov/crs-product/R47681> (describing the “[s]everal factors” that “led DHS
 to release more encountered migrants into the United States than had been typical” during this
 period, including shifts in “the demographic composition” of encountered migrants away from
 single adults and toward “family units” and individuals with “health- or age-related
 vulnerabilities”).

24 ⁵ Webster and Singer, *supra* note 4 at 4; *see also* U.S. Immigr. and Customs Enf’t, Fiscal
 25 Year 2023: ICE Annual Report at 9 (Dec. 29, 2023), [https://www.ice.gov/doclib/
 eoy/iceAnnualReportFY2023.pdf](https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf) (“ICE does not transport released noncitizens to their
 26 destination in the interior of the United States and does not choose where released noncitizens
 ultimately settle.”).

32. Unfortunately, Washington’s housing and homeless crisis response system was already over capacity at this time and stretched too thin to provide the kind of initial support that would not only meet the immediate needs of these newcomers but also allow them to find their bearings in their new home. Indeed, most of Washington’s emergency shelters were already filled each night. Unsurprisingly, of the estimated 21,457 noncitizen migrants who arrived in Washington in 2023, approximately 3,841, or 18 percent, reported experiencing homelessness.

33. The unsustainable strain of this additional need was abundantly clear to local shelters, like Seattle-based Mary’s Place, which saw the amount of shelter space it allocated to noncitizen migrants jump from 25 percent in 2023 to 48 percent in 2024.

34. Statewide, Washington estimates that approximately 1,200 to 1,500 noncitizen migrants were reliant on unstable housing options in 2024, including hotels, family shelters, or tent encampments, which had formed in several locations during this period, particularly in King County.⁶

35. The largest tent encampment formed in early 2023 on the property of the Riverton Park United Methodist Church (RPUMC) in the City of Tukwila. At its peak, upwards of 300 noncitizen migrants, mainly from Venezuela, Angola, and Congo, were living in “50 to 60 tents” that had been “crammed into the church’s front lawn, around side buildings and on the pavement of what used to be a parking lot.”⁷ The RPUMC encampment residents included families with children, as well as pregnant and post-partum people.

⁶ See, e.g., Anna Patrick, *Asylum-seekers removed from Kent encampment; many questions remain*, Seattle Times (Sept. 28, 2024), <https://www.seattletimes.com/seattle-news/homeless/asylum-seekers-removed-from-kent-encampment-many-questions-remain/>; Gene Johnson, *Hundreds of asylum-seekers are camped out near Seattle. There’s a vacant motel next door*, Assoc. Press (June 7, 2024), <https://apnews.com/article/seattle-kent-asylum-seekers-aa05d9f113f2e16d3dfa463ae4e25358>; Michelle Esteban, *Hundreds of refugees set up encampment at Powell Barnett Park in Seattle*, KOMO News (April 30, 2024), <https://komonews.com/news/local/seattle-refugees-encampment-powell-barnett-park-central-district-migrants-asylum-seeking-process-quality-innkent-hotel-venezuela-congo-central-africa-tukwila-church>.

⁷ Nura Ahmed and Guy Oron, *Nowhere to lay their head: Hundreds of migrants making camp at Tukwila church*, Real Change News (Nov. 2, 2023),

36. For a group that included those who arrived in Washington after “surviving war, rape and other atrocities,” encampments provided a measure of relative safety and stability.⁸ But they also lacked adequate protection from the elements or appropriate sanitation infrastructure, which presented numerous public health and safety issues.⁹

37. The City of Tukwila eventually proclaimed a state of emergency at the RPUMC encampment, finding that the site “constitutes a humanitarian crisis where the need for resources for safe sanitary shelter is acute and beyond the capabilities of Tukwila itself to manage.”¹⁰

38. Washington recognized that, without additional resources and better coordination among service providers, the needs of its new noncitizen migrant residents would continue to go unmet. True to its values, Washington responded, launching the Washington Migrant and Asylum-Seeker Support Project (the “WA MASS Project”) in October 2024, which increased the state’s capacity to help the recently arrived noncitizen migrants meet their most basic needs: suitable shelter; access to food, water, and acute medical care; and basic hygiene supplies, like clean diapers.

39. Specifically, the WA MASS Project vested the Washington Department of Social & Health Services (DSHS) Office of Refugee and Immigrant Assistance (ORIA) with new legal authority to “administer services to immigrants who are ineligible for federal [refugee resettlement] services” and to “contract with . . . community-based organizations” for that purpose. Wash. Rev. Code § 74.74.060; Laws of 2024 ch. 153, SHB 2368. The Legislature also

<https://www.realchangenews.org/news/2023/11/01/tukwila-church-asylum-seekers-humanitarian-crisis>.

⁸ *See id.*

⁹ Johnson, *supra* note 6 (quoting a Congolese man living in the Kent encampment, who shared that the living conditions were “very difficult” and that he and his wife did not have enough food or any way to wash themselves); *see also* Ahmed and Oron, *supra* note 7 (describing the RPUMC encampment’s overflowing dumpsters and heavily used restrooms).

¹⁰ Allan Ekberg, Mayor of the City of Tukwila, *Proclamation* (Oct. 6, 2023), <https://www.tukwilawa.gov/wp-content/uploads/Emergency-Proclamation-re-Riverton-Park-United-Methodist-Church-RPUMC.pdf>.

1 appropriated \$25 million for the WA Mass Project, which funded a one-year pilot project
 2 designed to provide essential services for noncitizen migrants who had entered the United States
 3 in 2022 or later, did not qualify for federal refugee resettlement assistance, had not been granted
 4 a permanent immigration status, and had a household income below 200% of the federal poverty
 5 guidelines.¹¹

6 40. Through the WA MASS Project, Washington sought to build a statewide network
 7 of organizations that could deliver a coordinated response to meet the specific and immediate
 8 needs of the recently arrived noncitizen migrants. The funds available through the WA MASS
 9 Project were competitively awarded to organizations that could provide services in six core
 10 service areas: (1) reception and navigation services, (2) emergency shelter, (3) housing
 11 navigation and rental assistance, (4) culturally responsive case management services,
 12 (5) immigration-related legal services, and (6) education, employment, and training services.

13 41. Although the support provided through the WA MASS Project was an important
 14 expression of Washington's values, as well as an important infusion of material support,
 15 Washington recognized that more was needed to ensure that the essential needs of its noncitizen
 16 migrant residents were met, particularly given the time-limited nature of the WA MASS pilot
 17 program. Accordingly, Washington looked to expand the reach of the WA MASS Project by
 18 adding federal Shelter and Services Program funds into its resource mix.

19 **2. Congress created the Shelter and Services Program to ensure states,**
 20 **localities, and community organizations could meet the needs of noncitizen**
 21 **migrants, after their release from DHS custody**

22 42. Recognizing the need for additional resources to help local communities meet the
 23 needs of noncitizen migrants, in 2019, Congress began appropriating funds to FEMA for
 24 disbursement "to jurisdictions or local recipient organizations serving communities that have

25 ¹¹ Press Release, Wash. State Dep't of Social and Health Services, *Washington state*
 26 *launches Migrant and Asylum-Seeker Support Project* (Nov. 6, 2024),
<https://www.dshs.wa.gov/os/office-communications/media-release/washington-state-launches-migrant-and-asylum-seeker-support-project>.

1 experienced a significant influx of” noncitizen migrants as reimbursement “for costs incurred in
 2 providing services” to those newcomers. *See* Emergency Supplemental Appropriations for
 3 Humanitarian Assistance and Security at the Southern Border Act, Pub. L. No. 116-26, Title III,
 4 133 Stat. 1020, 1020-21 (July 1, 2019).

5 43. President Trump signed the first iteration of this funding into law on July 1, 2019,
 6 appropriating \$30,000,000 “for the emergency food and shelter program,” which “provid[ed]
 7 assistance to aliens released from the custody of the Department of Homeland Security” through
 8 grants administered by FEMA under the Emergency Food and Shelter Program - Humanitarian
 9 (EFSP-H). *See id.* Congress continued to support the EFSP-H grant program with further
 10 appropriations in 2021 and 2022. *See* American Rescue Plan Act of 2021, Pub. L. No. 117-2,
 11 135 Stat. 79 (March 11, 2021) (\$110,000,000); Consolidated Appropriations Act, 2022, Pub. L.
 12 No. 117-103, 136 Stat. 345 (March 15, 2022) (\$150,000,000).

13 44. In 2023, Congress established the Shelter and Services Program by appropriating
 14 \$800,000,000 “to support sheltering and related activities provided by non-Federal entities . . . in
 15 support of relieving overcrowding in short-term [CBP] holding facilities.” Consolidated
 16 Appropriations Act, 2023, Pub. L. No. 117-328, 136 STAT. 4730 (Dec. 29, 2022). In an
 17 accompanying Joint Explanatory Statement, Congress clarified that “the \$800 million [wa]s
 18 appropriated for” the creation of the SSP but, “[i]n order to avoid any interruption in support
 19 for CBP short-term holding facility decompression,’ up to \$785 million” was available for award
 20 under the existing EFSP-H grant program.¹² SSP, which awards funds directly to recipients, was
 21 meant to replace the EFSP-H, which distributed funds to recipients through a national board.¹³

22 45. Congress reauthorized the Shelter and Services Program in March 2024 and
 23 directed CBP to transfer \$650,000,000 to FEMA “to support sheltering and related activities

24 ¹² U.S. Dep’t of Homeland Sec., Fiscal Year 2023 Report to Congress at 2 (October 18,
 25 2023), [https://www.dhs.gov/sites/default/files/2023-11/2023_1018_fema_shelter_and_services](https://www.dhs.gov/sites/default/files/2023-11/2023_1018_fema_shelter_and_services_program_fy23.pdf)
 26 [program_fy23.pdf](https://www.dhs.gov/sites/default/files/2023-11/2023_1018_fema_shelter_and_services_program_fy23.pdf).

¹³ *Id.*

provided by non-Federal entities, in support of relieving overcrowding in [CBP’s] short-term holding facilities.” Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, 138 STAT. 597, 598 (March 23, 2024).

46. On April 12, 2024, FEMA announced that it was accepting applications for \$340,900,000 in competitive SSP grant funds, which it would award by September 30, 2024. *See* FY 2024 SSP-C Notice of Funding Opportunity (NOFO), attached as Exhibit 1. FEMA expressly stated that these funds were being made available, “[a]s directed by Congress, . . . to enable non-federal entities to off-set allowable costs incurred for services associated with noncitizen migrants recently encountered and released by DHS,” in order to achieve “the primary purpose of SSP”: “relieving overcrowding in short-term holding facilities of [CBP].” *Id.* at 5 (emphasis added) (quoting Pub. L. No. 118-47, 138 STAT. at 598).

47. Although the grants were awarded on September 30, 2024, their performance period was October 1, 2023 – September 30, 2026, which meant that grant recipients could seek reimbursement for any allowable expenses incurred during that period. *See id.* at 7.

48. As specified in the NOFO, state and local governments, Native American tribes, and certain non-profit organizations were eligible to apply and would be evaluated based on their ability to meet “Performance Measures,” such as the number of meals and nights of lodging they had provided or expected to provide, and the number of “noncitizen migrants served through translation services.” *See id.* at 6-7.

49. In keeping with the purpose of SSP, only services provided to “noncitizen migrants released from a DHS facility” were reimbursable under SSP grants. *See* NOFO at 47. In addition, only costs related to the “allowable activities” designated by FEMA in an appendix to the NOFO were subject to reimbursement. *See id.* at 47-51.

50. In order to be reimbursed for an allowable expense under an SSP award, grant recipients were required to submit documentation, including the names, Alien Registration

Numbers, and evidence of DHS processing, for the individuals being served, as well as proof of payment for the allowable services provided. *See id.* at 52-53.

3. FEMA awards Washington more than \$4 million in SSP funds to continue providing shelter and services to noncitizen migrants in Washington

51. Washington submitted its application for a competitive Shelter and Services Grant on June 21, 2024. *See* Washington SSP Application, attached as Exhibit 2.

52. In its application, Washington proposed disbursing SSP funds to three subrecipient partners, which it identified as well-suited to help advance the complementary goals of the WA MASS Project and SSP: the City of Tukwila, Public Health - Seattle & King County (Public Health), and the non-profit organization, Mary's Place Seattle. Washington planned to identify additional subrecipient partner organizations at a later date that would also be able to provide shelter and other essential services to noncitizen migrants.

53. Washington's proposed subrecipients each had established track records of successfully providing shelter and other services to noncitizen migrants and Washington anticipated that, collectively and with support from SSP funds, they would be able to provide shelter and other services to approximately 525 noncitizen migrants each day.

54. In support of its application, Washington described the services its intended subrecipients had already provided to noncitizen migrants, which would have been reimbursable and/or extended through Washington's SSP grant.

55. For instance, in October 2023, the City of Tukwila paid for the construction and operation of a large, heated tent structure at the RPUMC encampment, and also hired a consulting firm with experience doing outreach and providing services to unhoused populations. *See id.* at 4-21. Washington estimated that the City of Tukwila's efforts at RPUMC and other locations throughout the city were "support[ing] 200 to 250 people per night." *Id.* at 2.

56. Washington also sought SSP funds to support Public Health's work providing culturally relevant health information and acute medical care for noncitizen migrants residing in

1 various encampments and hotels in Seattle and King County, including at RPUMC. In particular,
 2 Public Health hired community navigators—health workers with relevant cultural and language
 3 competencies—that provided in-language guidance and support to noncitizen migrants on
 4 critical topics for those living in a congregate shelter with limited facilities. Through the
 5 community navigators, Public Health was able to provide information on best practices for
 6 hygiene and sanitation, rodent prevention, food safety, severe weather safety, vaccination, and
 7 health care system navigation, including health care enrollment and linkage to care.

8 57. Beyond its work to share information with noncitizen migrants, Public Health
 9 also provided goods and services. For instance, it provided direct healthcare through its Mobile
 10 Medical van, arranged transportation for pregnant people with health emergencies, such as
 11 preeclampsia, and handed out essential items, like hygiene kits, baby formula and diapers, and
 12 baby and maternity clothing.

13 58. Washington also planned to use SSP funds to support the work of Mary’s Place,
 14 a Seattle-based non-profit with a long history of providing emergency shelter for unhoused
 15 families, including pregnant people, families with infants or medically fragile children, and
 16 families fleeing domestic violence. Washington estimated that Mary’s Place was able to serve
 17 approximately 150 noncitizen migrants per day with a 24/7 shelter operation that included, in
 18 addition to bed space, a centralized food service, connections to housing specialists, healthcare,
 19 youth programming, legal clinics, job fairs, and resume workshops.

20 59. In addition to the City of Tukwila, Public Health, and Mary’s Place, Washington
 21 planned to identify through the WA MASS Project’s competitive application process one or
 22 more additional partner organizations that were expected to provide shelter and services to an
 23 additional 425 noncitizen migrants each day.

24 60. As part of its application, Washington certified that it and its intended
 25 subrecipients either had or would develop the “internal controls and processes” necessary “to
 26 clearly identify migrants who will be receiving services to be funded by SSP dollars and to ensure

1 said migrants were processed and released from DHS apart from other populations served.”
 2 *See* Washington SSP Application Worksheet (Tab 5), attached as Exhibit 3. Washington further
 3 certified that, when seeking reimbursement for services rendered, it would submit “verified
 4 status and release dates . . . by Alien Registration Number . . . or evidence of DHS
 5 processing . . . for any A-numbers being submitted with this application.” *Id.*

6 61. On September 26, 2024, FEMA notified Washington that its SSP grant
 7 application had been approved and that it had been awarded \$4,039,516. *See* SSP Award Package
 8 at 1, attached as Exhibit 4.

9 62. Included with FEMA’s Award Package was an Award Summary, which
 10 described the purpose of the Shelter and Services Program:

11 The Fiscal Year (FY) 2024 Shelter and Services Program (SSP) provides
 12 non-federal entities that *serve noncitizen migrants recently released from DHS*
 13 *custody* to temporarily provide shelter, food, transportation, acute medical care,
 14 personal hygiene supplies, and labor necessary to manage cases to provide these
 15 services, and to provide funding to non-federal entities to increase their capacity to
 16 *temporarily shelter noncitizen migrants recently released from DHS custody*,
 17 including renovations and modifications to existing facilities.

18 *Id.* at 2 (emphases added).

19 63. In connection with the award, FEMA also provided an approved scope of
 20 work for Washington’s SSP grant, which included the following budgeted amounts:

- 21 a. \$25,237.66 for DSHS, through a subrecipient partner, to rent hotel/motel
 22 rooms as emergency shelter for an estimated 500-600 noncitizen migrants;
- 23 b. \$284,035.32 for the City of Tukwila’s six-month rental of a large tent at
 24 RPUMC, which provided shelter to 75 noncitizen migrants;
- 25 c. \$182,500 for the City of Tukwila’s operation of a food pantry at the
 26 RPUMC;
- d. \$180,000 for the City of Tukwila serving 12,000 meals to noncitizen
 migrant residents at RPUMC and hotels in Tukwila;

- e. \$688,098.92 for the City of Tukwila retaining the services of Innovative Impact Strategies, LLC (i2), which was engaged to help manage the temporary shelter and services being provided to the 250-300 noncitizen migrants residing at RPUMC;
- f. \$22,947.99 to the City of Tukwila for garbage and refuse collection, site cleanup and disposal of debris;
- g. \$10,000 to the City of Tukwila for translation and interpretation services to help with community and external communications at RPUMC;
- h. \$117,000 for Public Health to purchase a one-year supply of diapers for 150 infants;
- i. \$25,500 for Public Health to provide emergency medical transportation for pregnant people needing stabilization due to preeclampsia, for three years;
- j. \$11,250 for Public Health to purchase maternity clothes for 150 pregnant people;
- k. \$4,500 for Public Health to purchase baby clothing for 150 babies;
- l. \$30,000 for Public Health to purchase a one-year supply of baby formula for 20 babies;
- m. \$161,032.20 for Public Health mobile teams to conduct health screenings for noncitizen migrants residing in emergency shelters and hotels in King County;
- n. \$175,000 for Public Health to purchase 5,000 hygiene kits containing soap, shampoo, combs, brushes, deodorant, baby wipes, body wipes, and storage bags;
- o. \$10,000 for Public Health to purchase and distribute hygiene and sanitation outreach materials;

p. \$250,000 for Public Health to hire a full-time equivalent midwife for three years to provide health screenings for pregnant people.

q. \$246,375.00 for Mary's Place to provide meals to 150 people per day for one year; and

r. \$684,375.00 for Mary's Place to provide shelter beds to 150 noncitizen migrants per day for one year.

64. In total, FEMA's approved scope of work contemplated that Washington would allocate its \$4,039,516 award to subrecipients in the following amounts: \$1,507,088.34 for the City of Tukwila; \$1,218,595.18 for Public Health; and \$1,080,741 for Mary's Place. The remaining \$233,091.48 was reserved for additional lodging costs and DSHS' administrative expenses.

65. Although the entire award amount was obligated to Washington, FEMA placed payment holds on \$1,480,000, pending its review of more detailed cost breakdowns and justifications. Washington anticipated being able to provide that information and, over the course of the performance period, utilizing the full award amount.

66. These funds would have been used to reimburse allowable expenses for services that had already been provided, as well as to support the continued provision of services by Washington's intended subrecipients.

67. Washington entered into a client service contract with Mary's Place on February 20, 2025, pursuant to which the state is obligated to reimburse Mary's Place for the full amount it planned to allocate from the SSP award. Given the uncertainty created by Defendants' actions, Washington decided not to move forward with similar client service contracts for the City of Tukwila and Public Health.

B. The Trump Administration Illegally Cut Funding Appropriated by Congress for the Shelter and Services Program

1. President Trump directed DHS to eliminate federal funding from “Sanctuary Jurisdictions”

68. As soon as he took office, President Trump issued an executive order entitled “Protecting the American People Against Invasion” (the “Invasion EO”). Exec. Order 14159, 90 Fed. Reg. 8443 (Jan. 29, 2025). The Invasion EO asserted that the United States had experienced an “unprecedented flood of illegal immigration” and that this influx “has cost taxpayers billions of dollars at the Federal, State, and local levels.” *Id.* at 8443.

69. The Invasion EO also called for a “Funding Review” and directed the Secretary of DHS, among other agency officials, to review “all contracts, grants or other agreements providing federal funding to non-governmental organizations” that support or provide services, “directly or indirectly,” to “removable or illegal aliens” and to “[p]ause distribution of all further funds pursuant to such agreements pending the results of” this review. *Id.* at 8447.

70. The Invasion EO further directed the DHS Secretary to ensure that “so-called ‘sanctuary’ jurisdictions” did not receive federal funds. *Id.* at 8446.

71. DHS considers Washington to be a “sanctuary jurisdiction.”¹⁴

72. On January 28, 2025, Secretary Noem issued a memorandum directing DHS “Component and Office Heads” to place “on hold pending review” all DHS “grant disbursements and assessments of grant applications that: (a) go to non-profit organizations or for which non-profit organizations are eligible, and (b) touch in any way on immigration.” Secretary Noem, Memorandum for Component and Office Heads (Jan. 28, 2025) (the “January 28 Noem Memo”), attached as Exhibit 5. Secretary Noem gave the DHS component heads one week to “provide a

¹⁴ See U.S. Dep’t of Homeland Sec., Sanctuary Jurisdictions Defying Fed. Immigr. Law, available at <https://web.archive.org/web/20250531234232/https://www.dhs.gov/sanctuary-jurisdictions> (last visited on June 20, 2025); see also Simone Carter, *Trump targets WA state with ‘sanctuary jurisdiction’ list, and wants to withhold funds*, The Olympian (June 3, 2025), <https://www.theolympian.com/news/politics-government/article307552996.html>.

1 report to the Undersecretary for Management” with “a summary of every grant covered by this
2 memorandum and its status.” *Id.*

3 73. The Secretary’s reason for this sweeping decision “include[d]” her unsupported
4 “concerns” that the grants: (1) “may be funding illegal activities, such as encouraging or inducing
5 illegal immigration, 8 U.S.C. § 1324(a)(1)(A)(iv), or illegal harboring of illegal aliens, 8 U.S.C.
6 §§ 1324(a)(1)(A)(ii)-(iii); (2) may include “racially discriminatory language”; and (3) “may not
7 be an efficient use of government resources.” *Id.*

8 74. Despite having tasked DHS component and office heads with identifying covered
9 grant programs, Secretary Noem summarily asserted that the “hold . . . appl[ies] to the Shelter
10 and Services Program[.]” *Id.*; *see also* Decl. of Cameron Hamilton at ¶ 9, *City of New York v.*
11 *Trump*, 25-cv-1510 (S.D.N.Y.), ECF No. 17-1 (testifying that, based on the January 28 Noem
12 Memo, “FEMA did not have the authorization to make [a] payment” to New York City under an
13 open SSP award).

14 75. On February 14, 2025, Mr. Hamilton, the Senior Official Performing the Duties
15 of the Administrator at FEMA, issued Grant Processing Guidance, which implemented Secretary
16 Noem’s instruction by placing “[g]rants under the Shelter and Services Program . . . on hold,
17 pending a compliance review,” and prohibited FEMA from making any “new obligation,
18 disbursement or payment of funds previously obligated.” *See* FEMA, Grant Processing Guidance
19 (Feb. 14, 2025), attached as Exhibit 6. The FEMA Grant Processing Guidance thus put yet
20 another bureaucratic layer between the funds and SSP grant recipients, thereby ensuring they
21 remained unavailable. *Id.*

22 76. But Defendants did more than merely place the Shelter and Service Program “on
23 hold”; they eliminated it entirely. Indeed, the transaction history for the Shelter and Services
24 Program on USASpending.gov shows that, on February 10, 2025, FEMA de-obligated more than
25
26

\$885 million in funds previously awarded as SSP grants,¹⁵ including Washington's full award amount of \$4,039,516.¹⁶

Award History

Transaction History					
Modification Number	Assistance Listing	Action Date	Amount	Action Type	Transaction Description
--	97.141	02/10/2025	-\$4,039,516	C: REVISION	SHELTER AND SERVICES PROGRAM
0	97.141	09/27/2024	\$4,039,516	A: NEW	SHELTER AND SERVICES PROGRAM

● Outlayed Amount	\$0.00
● Obligated Amount	\$0.00
○ Non-Federal Funding	\$0.00
● Total Funding	\$0.00

77. On information and belief, FEMA de-obligated unspent funds for the entire Shelter and Services Program.

78. Practically, FEMA's de-obligation¹⁷ of all Shelter and Services Program funds rendered grant recipients, like Washington, unable to seek reimbursement for allowable expenses incurred under the grant. This behind-the-scenes accounting maneuver carried legal significance, as well. As Defendants have elsewhere explained, "[t]hat SSP funds were de-obligated reflect[ed] the accounting reality that the government terminated plaintiffs' grant awards."¹⁸

79. FEMA did not notify Washington of this action, either before or after it occurred.

¹⁵ See USASpending.gov, Advanced Search (last visited September 16, 2025), <https://www.usaspending.gov/search/?hash=f8657adf538ed7ee783fa1f3978e7586>

¹⁶ See U.S. Dep't of Homeland Sec., EMW-2024-SP-05140 (last visited on July 25, 2025), https://www.usaspending.gov/award/ASST_NON_EMW-2024-SP-05140_7022.

¹⁷ De-obligation is "[a]n agency's cancellation or downward adjustment of previously incurred obligations." U.S. Gov't Accountability Office, A Glossary of Terms Used in the Federal Budget Process, GAO-05-734SP at 44 (Sept. 2005), <https://www.gao.gov/assets/gao-05-734sp.pdf>.

¹⁸ See Defs.' PI Opp. Mem. at 8, *City of Chicago v. U.S. Dep't of Homeland Sec.*, 25-cv-5463 (N.D. Ill. July 30, 2025), ECF No. 37.

80. Next, having “paused” access to SSP funds based on their availability to non-profit organizations and connection to immigration, *see* January 28 Noem Memo, Secretary Noem directed all DHS components, including FEMA, “to review all federal financial assistance awards to determine if Department funds, directly or indirectly, are going to sanctuary jurisdictions” and to “cease providing federal funding to sanctuary jurisdictions” identified in that process.” *See* Memorandum for All Agencies and Offices, Restricting Grant Funding for Sanctuary Jurisdictions (Feb. 19, 2025) (the “February 19 Noem Memo”), attached as Exhibit 7.

81. FEMA carried out the directives imposed by the January 28 Noem Memo and the February 19 Noem Memo by: (1) identifying grant programs that, in FEMA’s view, do not “align with Administration and Secretary priorities on non-governmental organizations, immigration, and sanctuary jurisdictions”; and (2) recommending that DHS place “conditions or restrictions” on all Shelter and Services Program awards, *see* Approval of FEMA-Administered Grant Disbursements at 1-2, attached as Exhibit 8, and further (3) review all SSP awards “for [t]ermination,” *see id.*, Table A.

82. Secretary Noem approved FEMA’s recommendations on March 25, 2025. *See generally id.* at 3-4 (reflecting Secretary Noem’s signature and approval of FEMA’s recommendations).

2. Defendants imposed “special conditions” on grants made under the Shelter and Services Program before announcing the Program’s termination

83. On March 11, 2025, FEMA notified Washington that, in light of its “significant concerns that SSP funding is going to entities engaged in facilitating illegal activities,” it was “temporarily withholding payments” under the SSP grant “pursuant to 2 C.F.R. § 200.339(a)” and “instituting specific conditions . . . pursuant to 2 C.F.R. § 200.208.” *See* Letter from Cameron Hamilton at 1 (March 11, 2025) (the “March 11 Letter”), attached as Exhibit 9.

84. As “special conditions,” FEMA announced that it would conduct “additional monitoring and review of [Washington’s] award(s)”; require Washington to provide FEMA with

documents and information regarding the individuals to whom services had been provided under the SSP award within 30 days, including “names and contact information” for those individuals; and submit affidavits “attesting” that neither Washington nor its subrecipients have any “knowledge or suspicion that” the SSP funds had been used in violation of 8 U.S.C. § 1324. *See id.* at 1-2.

85. FEMA further directed Washington not “to incur any additional costs under the grant,” until further notice. *Id.* at 2.

86. FEMA did not identify specific incidents or evidence that gave rise to the “significant concerns” that supposedly justified the imposition of these conditions. Nor did it acknowledge that it had already zeroed out Washington’s SSP funds on February 10, 2025, or that Washington had yet to submit any reimbursement requests under the relatively new award.

87. FEMA promised that “[u]pon the conclusion of” its newly imposed “monitoring” period, it would notify Washington if further action would be taken. *Id.* It also notified Washington of its “right to appeal” the decision to withhold the funds and/or impose special conditions by writing to the FEMA Grant Programs Directorate by May 10, 2025. *See id.* (“Your organization has the right to appeal this action within 60 days of the date of this letter.”).

88. FEMA sent nearly identical notices to other SSP grant recipients around this time, as well.

89. On April 1, 2025, before the deadline for responding to FEMA’s information request or appealing the withholding decision had run, FEMA announced that it had formally terminated the Shelter and Services Program. *See* Termination Notice from Cameron Hamilton, Senior Official Performing the Duties of the Administrator at 1 (April 1, 2025) (the “Termination Notice”), attached as Exhibit 10.

90. The Termination Notice did not mention the “significant concerns” that had purportedly motivated FEMA to withhold SSP funds and impose monitoring requirements on

1 grantees only a few weeks earlier. Nor did the Termination Notice contend that the “special
2 conditions” Defendants imposed would have been insufficient to correct any alleged
3 noncompliance. *See id.* Indeed, the Termination Notice did not even mention that FEMA had
4 previously accused Washington of failing to comply with the terms and conditions of its grant.

5 91. Rather, FEMA simply stated that it was terminating Washington’s SSP award
6 because “funding . . . non-federal entities to provide shelter, food, transportation, acute medical
7 care, and personal hygiene supplies for individuals released from DHS short-term holding
8 facilities”—individuals who “often have no legal status and are in the United States
9 unlawfully”—“is not consistent with DHS’s current priorities.” Termination Notice at 1. That
10 determination, according to FEMA, justified termination under 2 C.F.R. § 200.340(a)(2), which
11 provides that an “award may be terminated” if it “no longer effectuates the program goals or
12 agency priorities.”¹⁹ *See* Termination Notice at 1.

13 92. FEMA thus instructed Washington to begin closing out the grant and advised that,
14 if Washington “wish[ed] to object to the termination of this award,
15 it should submit a written objection within 30 days.” *Id.* at 2.

16 93. Even where notices or letters referred directly to Washington’s grant,
17 Defendants’ correspondence gave no indication that their adverse actions were based on facts
18 and circumstances specific to Washington’s grant. Rather, Defendants’ actions appeared to be
19 responsive to the Administration’s broader policy aims of restricting federal funding to
20 noncitizen migrants and so-called “Sanctuary Jurisdictions.”

21 94. On April 23, 2025, Washington responded with its written objection to FEMA’s
22 unlawful decision to withhold and then terminate its SSP grant. *See* Letter from Cheryl Strange,
23 Secretary of the Washington Department of Social and Health Services at 1 (April 23, 2025),
24

25 ¹⁹ The Office of Management and Budget revised this regulation in 2024 and the
26 operative language is now located at 2 C.F.R. § 200.340(a)(4). *See* 89 Fed. Reg. 30046, 30089
(Apr. 22, 2024).

1 attached as Exhibit 11. Washington disputed that it had breached any obligations under the SSP
 2 grant, asserted that FEMA's decisions were unlawful and were causing Washington to suffer
 3 irreparable harm, and demanded that FEMA reverse its decision and/or respond to its objection
 4 letter by May 9, 2025. *Id.* at 2.

5 95. In lieu of closeout materials, Washington sent a further objection letter to FEMA
 6 on July 28, 2025, which reasserted its objections and reiterated that Washington had fully
 7 complied with all SSP grant obligations and that it intended to seek reimbursement for allowable
 8 expenses under the award in due course. *See* Letter from Cheryl Strange, Secretary of the
 9 Washington Department of Social and Health Services at 1-2 (July 28, 2025), attached as Exhibit
 10 12.

11 96. On August 20, 2025, Defendants provided "official notice" they had reached a
 12 "final determination" to deny Washington's appeal of Defendants' termination of its SSP grant.
 13 *See* FEMA Shelter and Services Program Appeal Decision at 1 (Aug. 20, 2025), attached as
 14 Exhibit 13. Defendants stated that this "official notice" was not appealable and also repeated
 15 their earlier demand for Washington to submit documentation to close out the award. *Id.*
 16 Washington did not respond to Defendants' August 20, 2025 letter.

17 97. On September 11, 2025, Defendants advised Washington that, if Washington
 18 does not submit "the required closeout documents by October 13, 2025," they will not only
 19 "administratively close[]" Washington's SSP grant but will also record this as a "material
 20 failure," which "may be considered in FEMA's oversight of other current and future awards."
 21 FEMA Notification of Administrative Closeout (Sept. 11, 2025), attached as Exhibit 14.

22 98. Defendants also threatened to "de-obligate [unspent funds] from the total grant
 23 amount," *see id.*, despite the fact that, as noted above, Defendants de-obligated Washington's
 24 entire award amount on February 10, 2025.
 25
 26

99. Despite Defendants’ most recent threat of further adverse action, if Washington does not comply with a prematurely imposed closeout deadline, Defendants have assured Washington and the Court “that the \$4,039,516 funds awarded to Washington under its SSP grant may not be re-obligated to another entity or potential grantee, and those funds will remain available through September 30, 2029 to satisfy obligations, if any, to Washington under its grant.” *See* ECF No. 11 at 2; ECF No. 12 at 1.

3. Defendants’ termination of the Shelter and Services Program irreparably harms Washington and its subrecipients

100. When Defendants terminated the Shelter and Services Program, Washington and its intended subrecipients had already provided services that would have been reimbursable under the terms of the award. And, although Washington had not yet requested reimbursement for any such expenses, it would have done so in due course.

101. Washington also intended to work with its subrecipients to ensure that the needs of noncitizen migrants continued to be met, at least through the end of the SSP performance period on September 30, 2026.

102. Without SSP funds, there is likely to be an overall drop in the level of services provided to noncitizen migrants in Washington; neither state or local governments or community organizations are likely to fill the \$4,039,516 hole left by Defendants’ termination of Washington’s SSP grant.

V. CLAIMS FOR RELIEF

COUNT I
Violation of the Separation of Powers Doctrine

103. Plaintiffs repeat and incorporate by reference the allegations set forth in each of the preceding paragraphs.

104. Federal courts possess the power in equity to grant injunctive relief “with respect to violations of federal law by federal officials.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326-327 (2015).

105. “The Separation of Powers was an integral part of the Founders’ design” of our constitutional order, *City & County of San Francisco v. Trump*, 897 F.3d 1225, 1232 (9th Cir. 2018), and fidelity to that principle remains necessary to “preserve the liberty of all the people,” *Collins v. Yellen*, 594 U.S. 220, 245 (2021).

106. Pursuant to that doctrine, the Constitution “grants the power of the purse to Congress, not the President.” *City & Cnty. of San Francisco*, 897 F.3d at 1231 (first citing U.S. Const. art. I, §9, cl. 7 (Appropriations Clause), and then citing U.S. Const. art. I, §8, cl. 1 (Spending Clause)). The ability to control federal spending is “[a]mong Congress’s most important authorities.” *Biden v. Nebraska*, 600 U.S. 477, 505 (2023). The Appropriations Clause thus operates as a “bulwark of the Constitution’s separation of powers” and prevents the Executive from “possess[ing] an unbounded power over the public purse of the nation.” *U.S. Dep’t of Navy v. Fed. Lab. Rels. Auth.*, 665 F.3d 1339, 1347 (D.C. Cir. 2012) (Kavanaugh, J.) (internal citations omitted).

107. In addition, Congress also possesses exclusive power to legislate. Article I, Section 1 of the Constitution states that “[a]ll legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and [a] House of Representatives.” U.S. Const. art. I, §1; see *Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (“There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.”). Accordingly, “[a]side from the power of veto, the President is without authority to thwart congressional will by canceling appropriations passed by Congress.” *City & Cnty. of San Francisco*, 897 F.3d at 1232. That means that “the President does not have unilateral authority to refuse to spend” funds that have been lawfully appropriated by Congress

1 or to “decline to follow a statutory mandate or prohibition simply because of policy
2 objections.” *Id.* (quoting *In re Aiken Cnty.*, 725 F.3d 255, 259, 261 n.1 (D.C. Cir. 2013)).

3 108. The Constitution further delineates the division of responsibilities between the
4 Legislative and Executive Branches by specifying that the Executive must “take Care that the
5 Laws be faithfully executed.” U.S. Const. Art. II, Sec. 3; *see Util. Air Regul. Grp. v. EPA*,
6 573 U.S. 302, 327 (2014) (“Under our system of government, Congress makes [the] laws and
7 the President . . . faithfully executes them.” (brackets and quotation marks omitted)). The
8 Executive Branch violates the Take Care Clause where it declines to execute or otherwise
9 undermines statutes enacted by Congress and signed into law or duly promulgated regulations
10 implementing such statutes. *See In re United Mine Workers of Am. Int’l Union*, 190 F.3d 545,
11 551 (D.C. Cir. 1999) (“[T]he President is without authority to set aside congressional legislation
12 by executive order”); *Kendall v. United States*, 37 U.S. 524, 613 (1838) (rejecting argument
13 that by charging the President with faithful execution of the laws, the Take Care clause “implies
14 a power to forbid their execution”); *see also Util. Air. Reg. Grp.*, 573 U.S. at 327 (noting that
15 the President “act[s] at time through agencies”).

16 109. The federal courts have “not hesitated to enforce the principle of separation of
17 powers embodied in the Constitution when its application has proved necessary for the decisions
18 of cases or controversies properly before it.” *Buckley v. Valeo*, 424 U.S. 1, 123 (1976). Thus,
19 “whenever a separation-of-powers violation occurs, any aggrieved party with standing may file
20 a constitutional challenge.” *Collins*, 594 U.S. at 245.

21 110. Congress created the Shelter and Services Program through duly enacted
22 authorizing legislation and appropriated funding under that program “to support sheltering and
23 related activities provided by non-Federal entities . . . in support of relieving overcrowding in
24 short-term [CBP] holding facilities.” *See* Pub. L. No. 117-328, 136 STAT. 4730; Pub. L. No.
25 118-47, 138 STAT. 597, 598. Congress thus knowingly decided to spend money for the benefit
26

1 of a group that was certain to include some who had entered into the United States without
 2 inspection and might ultimately be ordered removed from the country. Doing so, in Congress’
 3 judgment, was desirable in order to achieve its objective of relieving overcrowding in DHS
 4 detention facilities.

5 111. Defendants may disagree with Congress’ policy choice but that does not entitle
 6 them to ignore Congress’ clear funding command and their decision to terminate the Shelter and
 7 Services Program for that reason violates the Separation of Powers doctrine.

8
 9 **COUNT II**
Violation of the Spending Clause
U.S. Const. Art. I, Sec. 8, cl. 1

10 112. Plaintiffs repeat and incorporate by reference the allegations set forth in each of
 11 the preceding paragraphs.

12 113. The Spending Clause of the U.S. Constitution provides that “Congress”—not the
 13 Executive—“shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the
 14 Debts and provide for the common Defence and general Welfare of the United States”
 15 U.S. Const. Art. I, Sec. 8, cl. 1.

16 114. The Spending Clause requires any conditions on federal funds to be imposed
 17 “unambiguously,” *Pennhurst State School & Hospital v. Halderman*, 451 U.S. 1, 17 (1981), so
 18 that States deciding whether to accept such funding can “exercise their choice knowingly,
 19 cognizant of the consequences of their participation,” *South Dakota v. Dole*, 483 U.S. 203, 207
 20 (1987). This is because “legislation enacted pursuant to the spending power is much in the nature
 21 of a contract,” where Congress’s authority “to legislate . . . rests on whether the State voluntarily
 22 and knowingly accepts the terms of the ‘contract.’” *Pennhurst*, 451 U.S. at 17. Accordingly,
 23 Congress must provide States clear notice of the applicable funding conditions. *See, e.g.,*
 24 *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 296 (2006).
 25
 26

115. Nothing in the Shelter and Services Program authorizing legislation, or anywhere else in the U.S. Code, allows Defendants to pause, withhold, or terminate grants made under that program simply because they dislike the program and find that it conflicts with their current policy preferences or priorities. *See* Termination Notice at 1 (citing 2 C.F.R. § 200.340(a)(2)). And, within the confines of the Spending Clause, no statute could empower agencies to administer grant funds in such an arbitrary fashion. Washington would not have applied for or accepted SSP funds—with all the recordkeeping and other administrative burdens acceptance entails—had it understood that Defendants might decide, midstream, to terminate the grant because providing shelter and other services to noncitizen migrants was no longer an agency priority. *See Arlington Cent. Sch. Dist. Bd. of Educ.*, 548 U.S. at 296 (analyzing Spending Clause claim “from the perspective of a state official who is engaged in the process of deciding whether the State should accept [federal] funds and the obligations that go with those funds”).

116. Defendants’ actions to pause, withhold, and terminate the Shelter and Services Program based only on a change in agency priorities violates the Spending Clause.

COUNT III
Violation of the Administrative Procedure Act, 5 U.S.C. § 706 (2)(A)
Arbitrary and Capricious

117. Plaintiffs repeat and incorporate by reference the allegations set forth in each of the preceding paragraphs.

118. Defendants are “agencies” under the Administrative Procedure Act (APA), 5 U.S.C. § 551(1), and their decision to pause, withhold, and eventually terminate the Shelter and Services Program constitutes “[a]gency action made [judicially] reviewable by statute and final agency action for which there is no other adequate remedy in a court.” *Id.* § 704; *see Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

1 119. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
2 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or
3 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

4 120. An agency action is arbitrary and capricious if it is not “reasonable and reasonably
5 explained.” *Fed. Commc’n Comm’n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021).
6 An agency fails to meet that standard if it “relied on factors which Congress has not intended it
7 to consider, entirely failed to consider an important aspect of the problem, offered an explanation
8 for its decision that runs counter to the evidence before the agency, or is so implausible that it
9 could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle*
10 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins., Co.*, 463 U.S. 29, 43 (1983). Furthermore,
11 where an agency changes its position on an issue, it must acknowledge the change, account for
12 the “serious reliance interests” that may have attached to the prior policy, and provide a
13 “reasoned explanation” if it is “disregarding facts and circumstances that underlay or were
14 engendered by the prior policy.” *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16
15 (2009). Finally, courts must set aside agency actions as arbitrary and capricious where, “viewing
16 the evidence as a whole,” there is “a significant mismatch between the decision the
17 [agency] made and the rationale [it] provided.” *Dep’t of Com. v. New York*, 588 U.S. 752, 783
18 (2019). “Accepting contrived reasons” of that sort “would defeat the purpose of the enterprise”
19 and convert judicial review into “an empty ritual.” *Id.* at 785.

20 121. Defendants’ actions pausing, withholding, and terminating the Shelter and
21 Services Program is arbitrary and capricious for myriad reasons.

22 122. To start, on January 28, Secretary Noem announced a policy that funds under the
23 Shelter and Services Program should be withheld, even as she instructed DHS component and
24 office heads to undertake a review of funding programs. But, instead of merely withholding SSP
25 funds, Defendants de-obligated all (or nearly all) available SSP funds on February 10, 2025,
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1 without notice or explanation and as an expression of their intention to terminate the program
 2 wholesale. Defendants then proceeded to undertake a sham process—asserting a need, based on
 3 vague reference to unspecified “concerns,” to investigate whether recipients, including
 4 Washington, had used SSP funds for illegal purposes, despite knowing that Washington had not
 5 yet requested a single dollar from its SSP grant and, more importantly, that Defendants had
 6 already taken steps toward terminating the Program entirely. Less than a month later, however,
 7 Defendants formally announced that their termination of the Shelter and Services Program was
 8 complete in a notice that did not even briefly mention their “concerns” about SSP grants being
 9 used to fund illegal activities. Instead, Defendants stated simply that they were terminating the
 10 Shelter and Services Program because of their policy-based objection to “provid[ing] support for
 11 illegal aliens.” Termination Notice at 1.

12 123. Defendants’ explanations for their actions, if an explanation was offered at all,
 13 were contrived, pretextual, and fail to consider that Congress specifically authorized and funded
 14 the Shelter and Services Program to “reliev[e] overcrowding in [CBP’s] short-term holding
 15 facilities” by reimbursing “non-Federal entities” that provide “shelter and related activities” for
 16 noncitizen migrants. *See* Pub. L. No. 118-47, 138 STAT. 597, 598. Ignoring that clear statutory
 17 purpose, Defendants’ actions were taken for the purpose of depriving disfavored groups of
 18 federal support, including noncitizen migrants, nonprofit organizations, and jurisdictions
 19 deemed to be so-called “sanctuary” jurisdictions. Defendants thus “relied on factors which
 20 Congress has not intended it to consider[.]” *State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 43.

21 124. Defendants have thus fallen well short of the APA’s requirement that agency
 22 actions be “reasonable and reasonably explained.” *Prometheus Radio Project*, 592 U.S. at 423.

23 125. Defendants’ actions also run afoul of the regulations governing their
 24 administration of federal awards, including because they: (1) failed to provide notice to
 25 Washington before zeroing out its funding on February 10, 2 C.F.R. § 200.342; (2) imposed
 26

specific conditions on SSP awards without explaining why those conditions were being imposed, *id.* § 200.208(2); and (3) terminated the Shelter and Services Program without allowing Washington time to satisfy the specific conditions, appeal the withholding decision, or actually determine that the specific conditions were insufficient to remedy Washington’s alleged noncompliance, *see id.* § 200.339.

126. Defendants’ failure to comply with binding regulations renders their conduct arbitrary and capricious. *See Erie Boulevard Hydropower, LP v. FERC*, 878 F.3d 258, 269 (D.C. Cir. 2017) (“[I]f an agency action fails to comply with its regulations, that action may be set aside as arbitrary and capricious.”).

COUNT IV
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)-(C)
Contrary to Law

127. Plaintiffs repeat and incorporate by reference the allegations set forth in each of the preceding paragraphs.

128. Under the APA, a court must “hold unlawful and set aside agency action, findings, and conclusions found to be . . . not in accordance with law; . . . contrary to constitutional right, power, privilege, or immunity;” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)–(C).

129. The Shelter and Services Program was created by Congress in order “to support sheltering and related activities provided by non-Federal entities . . . in support of relieving overcrowding in short-term [CBP] holding facilities.” *See* Pub. L. No. 118-47, 138 STAT. 597, 598. Thus, by design, the Shelter and Services Program was created to provide financial support to non-Federal entities, like Washington and its intended subrecipient partners, as reimbursement for the cost of providing emergency shelter and related services to noncitizen migrants following their release into the community by DHS. Congress thus made a conscious choice to provide funds in a manner that would benefit some individuals who may have entered into the United

1 States unlawfully because doing so was necessary to achieve its goal of “relieving overcrowding
2 in short-term [CBP] holding facilities.” *Id.*

3 130. Defendants openly engaged in actions meant to contravene the clear purpose of
4 the Shelter and Services Program and, in turn, violated the Constitution’s Separation of Powers
5 principle and usurped Congress’ authority under the Spending Clause. Finally, they attempt to
6 justify their actions by misconstruing 2 C.F.R. § 200.340(a)(2), which does not, and could not,
7 permit their straightforward effort to undermine a duly enacted funding program they do not like.

8 131. Accordingly, Defendants have acted contrary to law and in excess of their
9 statutory authority and their actions should be set aside.

10 **COUNT V**
11 ***Ultra Vires***

12 132. Plaintiffs repeat and incorporate by reference the allegations set forth in each of
13 the preceding paragraphs.

14 133. An executive agency “has no power to act . . . unless and until Congress confers
15 power upon it.” *Louisiana Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986); *see also*
16 *Nat’l Fed. Indep. Bus. v. Dep’t of Labor*, 595 U.S. 109, 117 (2022) (“Administrative agencies
17 are creatures of statute. They accordingly possess only the authority that Congress has
18 provided.”).

19 134. Defendants may exercise only that authority which is conferred by statute.
20 *See City of Arlington v. FCC*, 569 U.S. 290, 297 (2013) (federal agencies’ “power to act and
21 how they are to act is authoritatively prescribed by Congress, so that when they act improperly,
22 no less than when they act beyond their jurisdiction, what they do is ultra vires”).

23 135. Federal courts possess the power in equity to grant injunctive relief “with respect
24 to violations of federal law by federal officials.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575
25 U.S. 320, 326-27 (2015). Indeed, the Supreme Court has repeatedly allowed equitable relief
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1 against federal officials who act “beyond th[e] limitations” imposed by federal statute.
 2 *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689 (1949).

3 136. Because Defendants paused, withheld, and terminated the Shelter and Services
 4 Program for reasons that directly conflict with the very purpose for which that funding program
 5 was authorized and appropriated, they acted in excess of their statutory authorization to
 6 administer that program.

7 137. Defendants’ *ultra vires* actions have caused and will continue to cause ongoing,
 8 irreparable harm to Washington for which there is no adequate remedy at law.

9 VI. PRAYER FOR RELIEF

10 WHEREFORE, Washington prays that this Court:

11 138. Declare that Defendants’ decision to pause, withhold, or terminate the Shelter and
 12 Services Program was unlawful because it: (a) arrogates Congress’ power to control federal
 13 spending in violation of the Separation of Powers doctrine; (b) rests on an assertion of unfettered
 14 authority to terminate grants, in violation of the Spending Clause; (c) constitutes arbitrary and
 15 capricious agency decision-making, in violation of the APA; (d) contravenes multiple sources
 16 of binding law, in violation of the APA; and (e) is *ultra vires*.

17 139. Preliminarily and permanently enjoin Defendants to rescind any and all decisions
 18 to pause, withhold, or terminate the Shelter and Services Program;

19 140. Vacate and set aside Defendants’ decisions to pause, withhold, or terminate the
 20 Shelter and Services Program;

21 141. Retain jurisdiction to monitor Defendants’ compliance with this Court’s
 22 judgment;

23 142. Award Washington its reasonable fees, costs, and expenses, including attorneys’
 24 fees; and

25 143. Award such additional relief as the interests of justice may require.
 26

1 DATED this 19th day of September 2025.

2 Respectfully submitted,

3 NICHOLAS W. BROWN
4 Attorney General

5 /s/ Benjamin Seel

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2025, I electronically filed the foregoing document with the Clerk of the United States District Court for the Western District of Washington via the CM/ECF system which will send notifications of such filing to all parties who are entered in this matter and registered with the CM/ECF system.

DATED this 22nd day of September, 2025.

s/ Tiffany Jennings

TIFFANY JENNINGS
Paralegal