

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION - LOS ANGELES)

LOS ANGELES HOMELESS SERVICES)	CASE NO: 2:26-cv-07056-DOC-AJR
AUTHORITY,)	
	CIVIL
Plaintiff,)	
	Los Angeles, California
vs.)	
	Thursday, August 6, 2026
DONALD J. TRUMP, ET AL.,)	
	(9:13 a.m. to 3:11 p.m.)
<u>Defendants.</u>)	

HEARING RE:
MOTION FOR PRELIMINARY INJUNCTION

BEFORE THE HONORABLE DAVID O. CARTER,
UNITED STATES DISTRICT JUDGE,
PRESIDING

APPEARANCES: SEE PAGE 2

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Los Angeles, California; Thursday, August 6, 2026; 9:13 a.m.

(Call to Order)

THE COURT: There's a motion to intervene by LA CoC. I'd like to take that motion first so we know who's joining us today or not.

MS. AXEL: Your Honor, should we make our appearance in the LAHSA matter?

THE COURT: Please, but come on down and go to the lectern because I've got Courtsmart. We're recording it, and --

MS. MITCHELL: Your Honor, can we sit in the jury box?

THE COURT: Absolutely. In fact, I'd encourage you to be present throughout the day. I think there may be a lot of things that affect a lot of parties and other lawsuits.

So right back to the LA CoC and your motion to intervene. I read the papers, but your appearance please. And if you're going to stand, go to the lectern so we have you close to the microphone. You're more than welcome to be seated if you'd like to. I'm not affronted by that.

MS. AXEL: I'll make the appearance, Your Honor. For LAHSA, my name is Keri Curtis Axel. I am with the Waymaker Firm. With me at counsel table from my firm is Scott Malzahn.

THE COURT: And who's that?

MS. AXEL: Right here.

1 **THE COURT:** Okay. Thank you very much, Plaintiff.

2 **MS. AXEL:** And Emily Stierwalt, who we've not filed
3 an appearance for, Your Honor, is an associate at our firm and
4 we will --

5 **THE COURT:** Let's approve your appearance so you can
6 be at the table and speak if you'd like to.

7 **MS. AXEL:** Thank you. You want me to do you? Okay
8 and also co-counsel at Norton Rose, this is Chris Pelham, and
9 we have in the gallery here Abigail Urquhart and Alex
10 Scandroli. And, of course, we have LAHSA representatives as
11 well, Your Honor. I know you're familiar with the interim CEO
12 Gita O'Neill. All of the declarants that we offered from
13 LAHSA, Your Honor, are also present, and I've seen several of
14 LAHSA's commissioners, including Commissioner Sheikh. I saw
15 Commissioner Szlasa.

16 **THE COURT:** At any time you folks need to communicate
17 with your counselor or vice versa, go ahead and do that. I'm
18 not going to be affronted by movement around the courtroom.
19 You need to get information back to the counsel who are making
20 their appearances today.

21 **MS. AXEL:** We really appreciate that and there are at
22 least a couple of other commissioners. I saw Szlasa and
23 Perkins commissioners also here, Your Honor.

24 **THE COURT:** And the purported intervenors in this
25 matter for LA CoC.

1 **MS. MYERS:** Good morning, Your Honor. Shayla Myers
2 of the Legal Aid Foundation of Los Angeles on behalf of the
3 proposed plaintiff intervenor, Los Angeles Continuum of Care.

4 **THE COURT:** So will you now be representing the
5 intervenors in the LA Alliance matter and also representing if
6 the Court approves intervention and the intervenors in the LA
7 CoC matter?

8 **MS. MYERS:** Yes, Your Honor, but for purposes of
9 any -- because the matters are entirely separate, but to the --
10 for purposes of any appearances in which the Court requires
11 both, we have significant additional counsel for the LA
12 Alliance matter, which is why Catherine Sweetser is here. And
13 so just for purposes of ensuring that you can hear from all
14 parties without having to change hats, she'll be appearing for
15 the LA -- for the intervenors. Thank you.

16 **THE COURT:** And where is Catherine Sweetser? Where
17 is she located? Where? Well, come on up.

18 **MS. MYERS:** And so we have additional counsel on
19 behalf of the LA CoC.

20 **THE COURT:** Okay. And you're welcome to be seated in
21 the jury box or over here, whatever is comfortable. Then
22 counsel?

23 **MR. ROSENBAUM:** Good morning, Your Honor. Nice to
24 see you again. It's Mark Rosenbaum from Public Counsel on
25 behalf of LA CoC. With me from Public Counsel are Faizah Malik

1 and Jonathan Jager.

2 **THE COURT:** All right. Thank you very much.

3 **MS. CROWTHER:** Good morning, Your Honor. I'm Robyn
4 Crowther from Steptoe LLP for the LA CoC, and with me is my
5 colleague Abigail Orozco, who is in the gallery.

6 **THE COURT:** All right. And you're more than welcome
7 to come forward. We'll find chairs for you if you need to so
8 you can communicate quickly.

9 Now are there any purported conflicts? A lot of
10 these cases intertwine with each other or could because of the
11 funding mechanisms. Do I hear any concerns so far about
12 alleged conflicts that might arise? Let's just move on. Let's
13 not create a problem if there's not a problem. All right,
14 counsel, your argument concerning intervention.

15 **MS. MYERS:** Okay. Thank you, Your Honor, and I'd
16 also like to say that the chair of the Los Angeles Continuum of
17 Care board, Ben Kay, is here, along with the vice chair Josh
18 Decell and they're here this morning --

19 **THE COURT:** Thank you very much.

20 **MS. MYERS:** -- representing the CoC. We also have
21 other CoC board members here as well, including I think I saw
22 Suzette Shaw is here. There's also a number of other CoC board
23 members.

24 **THE COURT:** And let me stop. Once again, the same
25 courtesy. If you need to convey information, just don't worry

1 about the Court. Come up informally. Talk to your counsel.
2 I'd like to have that information conveyed so the counsel is
3 accurate in terms of making their representations. Counsel?

4 **MS. MYERS:** Thank you, Your Honor. As I said, we're
5 here today representing the Los Angeles Continuum of Care,
6 which is a critical and yet often underappreciated aspect of
7 the homeless response system. The Los Angeles Continuum of
8 Care is an entity that is mandated by Congress to exist in
9 every region under the McKinney-Vento Homeless Assistance Act.
10 It was created to bring together partners throughout the region
11 to set the priorities for federal funding on behalf of the
12 region.

13 The Continuum of Care in Los Angeles we often have
14 not heard of because it is a functional and collaborative
15 space. It is, as Your Honor knows, within Los Angeles there is
16 often a lot of consternation and conflict and the CoC is a
17 place within the Los Angeles homeless services response system
18 of deep collaboration. It is a spot where entities throughout
19 the region come together to do what Congress mandated them to
20 do, to set the priorities for the region. And so they have
21 done that seamlessly for decades.

22 As a result of that collaboration and stability, the
23 Los Angeles Continuum of Care has been able to set priorities
24 that prioritize permanent supportive housing, that prioritize
25 funding resources, that have brought and keep 11,000 formerly

1 unhoused individuals in housing, shelter, and services. The
2 Continuum of Care and the federal funding that comes along with
3 that collaboration is a tentpole of homeless services around
4 which all other funding circulates. That 11,000 -- the 11,000
5 people who were housed as a result of it and the \$240 million
6 of federal funding that it brings to the region is a bright
7 spot in collaboration and stability.

8 And as a result of that, the folks who were unhoused,
9 who were formerly unhoused are now stably housed as a result of
10 that collaboration and stability. All of that changed, Your
11 Honor, when HUD came to Los Angeles and suspended the Los
12 Angeles Homeless Services Authority and, in turn, has indicated
13 that they will effectively disband the CoC. And, Your Honor,
14 that is why we are here under Rule 24 to intervene in this
15 case.

16 And the interest at stake here is very, very clear.
17 HUD has indicated that if Los Angeles Homeless Services
18 Authority is suspended, then the CoC will not be able to
19 perform its congressionally mandated community collaboration
20 that is a foundational point of the homeless services response
21 system here. And that's enough, Your Honor, for purposes of
22 intervention. It's very, very clear that if LAHSA's interests
23 are affected in this litigation, so too are the CoC's
24 interests, and that's why we're here today.

25 Importantly, Your Honor, while the interests of the

1 CoC and the Los Angeles Homeless Services Authority are
2 aligned, there is no question the CoC believes very strongly
3 and will argue very strongly that the suspension of LAHSA is
4 illegal and that the immediate suspension is against the public
5 interest and should not be allowed to go forward. It's also
6 important to note, Your Honor, that the interests of LAHSA and
7 the CoC are not coextensive. If LAHSA is suspended, the CoC
8 continues to have arguments about why the remedial measures
9 that HUD has made clear will be placed on the CoC are also
10 illegal against the congressional mandate that dictates how the
11 CoC functions and should not be allowed to proceed against the
12 CoC. So the interests are aligned but not co-extensive, and
13 again, that's sufficient for purposes of Rule 24.

14 And the last thing that I will say for purposes of
15 intervention is why now? I think HUD, in response to the ex
16 parte application, argued that the CoC was late. But, Your
17 Honor, we expect they may argue that we're early as well. The
18 CoC moved to intervene at exactly the time that it was clear
19 that intervention was necessary to preserve the CoC's rights.
20 While LAHSA and the CoC received a letter on June 18th
21 indicating that HUD may take remedial measures and that they
22 may choose to effectively disband the CoC and allow individual
23 applicants to apply to HUD directly, that letter was explicit
24 that it was contingent upon receiving additional information
25 from the CoC related to the remedial measures.

1 And so the CoC did what HUD asked. The CoC responded
2 on July 17th, providing additional arguments about why the
3 remedial measures against the CoC were illegal, were
4 unsupported by the record, and should not be allowed to go
5 forward. And, Your Honor, on July 21st, HUD responded, making
6 it explicitly clear that if LAHSA remains suspended, that HUD
7 will take remedial actions against the CoC. And so as a result
8 of that, it's July 21st, that was the trigger date to the CoC,
9 that made it clear that they needed to intervene in this
10 lawsuit because the decision before the court today, i.e. the
11 suspension of LAHSA, would directly impair their rights.

12 And so within the course of 10 days, they moved as
13 expeditiously as possible to get their moving papers before
14 Your Honor. The timing in this case is entirely of HUD's
15 making. HUD decided, after what they purport to be a record of
16 years of violations and bases for suspension by LAHSA, HUD
17 chose to immediately suspend LAHSA 10 days into the competitive
18 funding competition. That, Your Honor, is the chaos that is
19 ensuing in Los Angeles, was HUD's decision to immediately
20 suspend LAHSA, and in turn, take remedial measures against the
21 CoC.

22 The CoC has moved to intervene because their
23 interests are at stake here, but they've also moved to
24 intervene as quickly as we have, Your Honor, because HUD has
25 made it clear that on August 10th, or after this Court makes a

1 ruling, but whichever is earlier. So by August 10th, they will
2 take remedial actions against the CoC. So that is another
3 reason why we're appearing today.

4 And finally, Your Honor, and I think Your Honor is
5 well aware of this, August 26th is the deadline for the CoC to
6 apply for \$240 million in federal funding. Your Honor, as we
7 laid out at the beginning, the Continuum of Care is a stable
8 site of funding. It's a stable site of housing. Service
9 providers, funders, and unhoused folks, 11,000 of them, rely on
10 the stability of the CoC. That is the interest that we are
11 here protecting, and it is why intervention is appropriate, and
12 Your Honor, it is why intervention is necessary right now. And
13 I'm happy to answer any questions that you may have.

14 **THE COURT:** Are there objections to intervention in
15 this matter? And if so, I'd like you to be heard.

16 **MR. HA:** Good morning, Your Honor. Joshua Ha for the
17 U.S. Government. I also have with me Daniel Beck, Alexander
18 Farrell, and Bill Essayli from the U.S. Attorney's Office.

19 **THE COURT:** All right. Thank you. And once again,
20 identification, U.S. Attorney is here.

21 **MR. FARRELL:** Assistant U.S. Attorney, Alexander
22 Farrell.

23 **THE COURT:** Thank you. It's a pleasure.

24 **MR. BECK:** Assistant U.S. Attorney, Daniel Beck.

25 **THE COURT:** Thank you. It's a pleasure, sir.

1 Counsel.

2 **MR. HA:** So the Government does oppose LA CoC's
3 intervention. Our primary objection is a timeliness issue. As
4 I understand it, and I think as they made plain just now, their
5 interest in this case is that they oppose the direct to HUD
6 application process, which we mentioned in the June 18th
7 letter. That June 18th letter made it very clear that the
8 direct to HUD application process was predicated on our
9 suspension of LAHSA, and that's what this case has been about
10 since day one.

11 There really is not -- I don't think there's a good
12 excuse for them to have sought intervention days before this
13 P.I. hearing, which, again, this is a very --

14 **THE COURT:** Pull the microphone just a little bit
15 closer to you.

16 **MR. HA:** Sorry. Sorry, Your Honor. So we oppose
17 mainly on timeliness grounds. We also just don't think that
18 this is a great case for permissive intervention or
19 intervention as of right. Again, this case has always been
20 about whether HUD is authorized to suspend LAHSA. To the
21 extent that issue is in this case, that interest is very well
22 represented. To the extent there are orthogonal issues, such
23 as whether the LA CoC is able to find a different collaborative
24 applicant in the next couple of days, the LA CoC --

25 **THE COURT:** Would you repeat that?

1 **MR. HA:** To the extent there are additional issues,
2 for instance, whether the LA CoC is able to find a different
3 collaborative applicant in the next couple of days, you know,
4 that could have been grounds for a different suit, but I don't
5 think it's a great idea to bring that into this case right now,
6 especially given Your Honor's first minute order, which made
7 clear that this is not a good case for rushed deliberations or
8 rushed briefing.

9 To the extent, though, that you're considering this
10 motion any further, the Government would like to have the
11 opportunity to file a written opposition in the next seven
12 days.

13 **THE COURT:** I would like to resolve the matter today.
14 If I'm going to allow either intervention as permissive or as a
15 matter of right, then I would want to hear those arguments by
16 all parties today.

17 **MR. HA:** Understood, Your Honor.

18 **THE COURT:** Anything else you'd like to add?

19 **MR. HA:** No, think that's all.

20 **THE COURT:** Counsel, let me turn to the table if
21 there's any of you gentlemen. All right.

22 Then any other parties who'd like to make a comment
23 on this matter?

24 **MS. AXEL:** Your Honor, LAHSA does not --

25 **THE COURT:** And if you're going to once again speak,

1 go to the lectern, or if you'd like to just remain seated so
2 the microphone's closer. I need you close to that mic.

3 **MS. AXEL:** I see. Understood, Your Honor. Perhaps I
4 will just sit next time.

5 Just briefly, Your Honor, LAHSA does not oppose the
6 intervention. I think under either grounds, the test is met,
7 Your Honor, here. I think as we flagged in our papers, I think
8 we interpreted the June 18th letter to be very broad in terms
9 of disbanding the CoC and disallowing them to submit the, you
10 know, or even to pick another collaborative applicant. I think
11 we viewed it very broadly. It did have some language in there
12 that could be interpreted to be conditional. I think then the
13 issuance of the revised NOFO, I think, made it very clear what
14 HUD's intentions were to the extent they were not clear before.
15 And, Your Honor, I think you appreciate how giant the subject
16 matter is here, how large, how difficult, how complicated.
17 Everyone has boards and stakeholders, and I think that the CoC
18 moved with all due diligence and it was sufficiently timely for
19 the Court to consider the motion.

20 **THE COURT:** LA Alliance, do you have any comment
21 you'd like to make? I don't think that this is necessarily
22 your issue, but if it is, I want to be courteous.

23 **MS. MITCHELL:** Not on the intervention, Your Honor.

24 **THE COURT:** County, City, any comment you'd like to
25 make? I want to be courteous and make certain. Intervenors

1 with LA Alliance? All right.

2 As a legal matter, I find that both the criteria for
3 permissive and as of right have been met. I'll follow that up
4 with a written opinion so you have appellate review available
5 to you and the Court's thoughts, but I'm concerned about
6 further delay in this matter. I think clearly you've met the
7 permissive and as of right standard, and if I delay this
8 further, I think that we're going to be in a very difficult
9 position in trying to decide these issues fairly for both
10 sides.

11 So I'm going to welcome the counsel for the board or
12 the CoC board in this matter, but make certain you're ready to
13 proceed and argue today because there won't be further
14 continuances in this matter. Are you ready today?

15 **MS. MYERS:** Yes, Your Honor.

16 **THE COURT:** All right. Now, we got into a little bit
17 of the argument by the parties, but this will be the time for
18 argument. You have unlimited time. I may have questions, but
19 I think I will delay those, and I think it would be appropriate
20 if we started with LAHSA in this matter, as the plaintiff. And
21 there will be rebuttal also, but it will be shorter. So this
22 is your presentation, and then after all of the parties have
23 argued, rebuttal.

24 **MS. AXEL:** Thank you, Your Honor. And just to
25 introduce the -- sort of how we would like to structure the

1 argument, if the Court is willing. Your Honor, I will handle
2 the primary argument here affirmatively, although my partner,
3 Scott Malzahn, is prepared to address the constitutional
4 claims, so I would hand him the podium briefly to address those
5 in the middle of my argument, if the Court is amenable to that.
6 And then the rebuttal would be divided between me and
7 Mr. Pelham from Norton Rose. Is that fine? Okay.

8 All right, Your Honor. We submit that LAHSA has
9 conclusively demonstrated that a preliminary injunction is
10 warranted to enjoin HUD's unlawful suspension. LAHSA is likely
11 to succeed on the merits. It will suffer irreparable harm,
12 absent relief. The balance of equities tips strongly in its
13 favor, and an injunction is in the public interest.

14 I'll be frank, Your Honor. We believe HUD's letter
15 is pretextual. It's an active attempt to disrupt Los Angeles'
16 infrastructure for assisting people experiencing homelessness
17 and to wrest policy away from this region. And the timing, as
18 Ms. Myer said, is strategic. Ten days into the 2026 NOFO.

19 We have called HUD's letter a mashup or a hodgepodge
20 of articles and old facts. There's no adequate evidence or
21 reasoned decision-making reflected in it. It's a politicized
22 hit piece that does not represent a good faith exercise of
23 authority by a government agency. And I want the Court to
24 focus on this. None of the criticisms in that letter actually
25 have anything to do with LAHSA's core functions, which I think

1 this Court understands very well. The Court is well familiar
2 with the critical roles LAHSA plays. And also, the information
3 we put in on those critical roles is completely un rebutted by
4 the Government. They don't address our declarations, not even
5 once. The Court should consider those facts un rebutted and
6 accept them for purposes of this argument and for purposes of
7 its ruling.

8 So, first, with respect to the HMIS system, this is
9 not mentioned in HUD's letters at all. Not mentioned in their
10 brief. HUD has identified absolutely no issues with regard to
11 how LAHSA manages HMIS for all of the four -- the region's four
12 CoCs, yet the suspension would render LAHSA unable to continue
13 to support this congressionally mandated data system. It
14 provides all of the data that the homelessness support funders
15 rely on and which HUD itself submits to Congress. This data,
16 of course, Your Honor, is also known and relied on in the LA
17 Alliance matter.

18 Some of the questions that the special master posed
19 today would be best answered by the people in this courtroom
20 here from LAHSA, who know exactly who the outreach workers are
21 on the streets, who are the ones that provide the dashboards
22 that show how the beds are used. Those people are at LAHSA,
23 and that's a large staff of about 50 people on the HMIS system
24 alone. And I think, as the Court also knows, that system has
25 made great strides in the last few years to integrate RMS data,

1 to provide a live dashboard, to provide real data that the
2 Court can look at or the special master can look at at any
3 time. Without LAHSA, Your Honor, that whole system grinds to a
4 halt.

5 Two, coordinated entry. Coordinated entry system and
6 LAHSA's role as the coordinated entry lead is also not
7 mentioned in HUD's letters or briefs, not even once. This is
8 also a requirement of HUD, that you have a coordinated entry
9 lead. And without this responsibility, Your Honor, which
10 intersects with the HMIS data but is different, has a whole
11 different staff, no one moves from interim or transitional
12 housing to permanent supportive housing. Nearly 25,000 people
13 on the CES waitlist cannot move without the matching services
14 that LAHSA provides and its team, and that's another team of
15 about 40 people.

16 Also not mentioned in HUD's brief or letters at all,
17 Your Honor, the PIT count or the homeless inventory count.
18 These are also HUD requirements and key to measuring the impact
19 of existing programs. Everything the Court wants to know about
20 the homeless people on the streets or the amount of inventory
21 is made available because of these services that LAHSA
22 provides. This is key to stakeholders at every level of
23 government.

24 Four, Your Honor, the collaborative applicant role.
25 Again, Your Honor, very interesting, none of the facts in that

1 letter have anything to do with LAHSA's collaborative applicant
2 role. LAHSA does this role very well. HUD provides, in fact,
3 a scorecard. When the NOFO is submitted to HUD, how HUD
4 determines and evaluates the competition, it actually literally
5 scores the NOFO application.

6 Since at least 2021, LAHSA has consistently ranked
7 highly, ranking well above the median. These scores are key to
8 the region receiving the complete funding that it might be
9 allowed to access. For fiscal year '24, the last time there
10 was a scoring, LAHSA scored 175 out of a maximum of 200 points.
11 Given how much bigger the LA CoC is, of course the Court knows,
12 by an order of magnitude, on every measure, this is a very
13 impressive outcome. LAHSA is the only entity that can prepare
14 that consolidated application by August 26th, and I will come
15 back to this point later.

16 Five, Your Honor, LAHSA's role as grantee itself,
17 receiving money from the federal government. If anything,
18 HUD's melange of mostly old sources comes closest to a critique
19 of LAHSA as an administrator of funds. But HUD has
20 consistently awarded funds to LAHSA for decades, and literally
21 just approved LAHSA as a grantee and approved LAHSA's grants to
22 all of the fiscal year '24 grantees. So all of the fiscal year
23 '24 grantees were renewed for 2025, and that happened in April
24 and May of this year. And in fact, LAHSA received the final
25 letter awarding the Q3 and Q4 grants on June 2nd, Your Honor,

1 eight days then before this letter.

2 In awarding LAHSA those funds in May and June of
3 2026, under the NOFO, HUD was required to consider the very
4 same factors that it purports to consider now. And I'm
5 literally reading from the 2024 NOFO, Your Honor, but for HUD
6 to award those funds to LAHSA, it had to consider things like
7 LAHSA's ability to account for funds in compliance with
8 applicable reporting and recordkeeping requirements. It had to
9 consider LAHSA's timely use of funds. It had to consider
10 LAHSA's timely submission and quality of reports. It had to
11 consider whether LAHSA met program requirements. I could go on
12 and on.

13 So just on June 2nd, HUD confirmed that LAHSA met
14 these factors. And then, again, in what is just the right hand
15 not talking to the left hand because we have political
16 appointees making a decision that don't square with what the
17 line people are doing at HUD, HUD turns around and sends this
18 peremptory letter. The fact that HUD's criticisms do not align
19 with what LAHSA actually does undermines its claim that it has
20 adequate evidence. It doesn't square what it claims to be
21 adequate evidence with anything that LAHSA is actually doing or
22 the legal standard.

23 The big picture takeaway here, Your Honor, is that
24 the people that wrote the letter at HUD don't know what LAHSA
25 does and how critical it is to the region, as you do, as

1 everyone in this courtroom does. The Court should therefore
2 view every so-called representation, evidence, or finding in
3 that letter with suspicion. These actions are contrary to law,
4 arbitrary and capricious, unconstitutional, and intentionally
5 so. Further, and without doubt, HUD has failed to consider the
6 reliance interests and public interest in issuing the
7 peremptory suspicion. The actions will hurt the unhoused in
8 Los Angeles and all of the stakeholders who serve them, and
9 that is HUD's whole point.

10 Turning to likelihood of success on the merits
11 specifically, Your Honor, to go through our legal analysis.
12 The APA claims present simple, direct, legal issues that this
13 court can reach. First of all, I don't think I need to say
14 much about final agency action. The test is clear. This is
15 the final action of the suspension officer. It immediately
16 suspends LAHSA, and it has immediate legal consequences, and
17 therefore the test is met.

18 The legal issues I think that this Court can quickly
19 reach that immediately argue for the Court finding in LAHSA's
20 favor are HUD has not identified any violations of public
21 agreements or transactions, and has failed to find that LAHSA
22 lacks present responsibility. HUD also did not apply the CoC
23 regulations. There are specific regulations applying to the
24 CoC program for performance reviews, sanctions, and remedial
25 measures. Instead, they went straight to the OMB suspension

1 and debarment rules. And when you have a more specific
2 regulation, Your Honor, under the case law interpreting the
3 APA, that's what you should apply. And that's what HUD has
4 always done in the past. This action is totally unprecedented.

5 HUD also failed to consider the reliance interests of
6 third parties, the balance of harm, reasonable alternatives to
7 suspension, and HUD wholly failed to show that immediate action
8 is in the public interest. And, Your Honor, you could decide
9 the whole thing on that basis, which is one of the two prongs
10 for them to actually suspend someone immediately, as they have
11 done. The Court should find these actions violate the APA.

12 There's two prongs to the APA that we've argued. One
13 is that HUD's actions were contrary to law. Usually that is
14 harder than the arbitrary and capricious prong, Your Honor.
15 But we submit it is clearly met here. And let me go back, and
16 I know the Court looked up when I mentioned it, to applying the
17 wrong regulations. And so I think that's the first area where
18 HUD's actions were contrary to law.

19 HUD is required to act in accordance with 24 CFR
20 578.107. And that requires it to take certain steps before
21 imposing a sanction like this. The statute is literally part
22 of the CoC program regulations -- sorry, the regulations are
23 part of the CoC program regulations, and it's called sanctions.
24 And it begins with a performance review. If HUD determines
25 preliminarily that the recipient or a subrecipient has not

1 complied with a program requirement, which is ultimately what
2 it says it's finding in the June 18th letter, HUD will give the
3 recipient notice and an opportunity to demonstrate that the
4 recipient has complied. They skip that step. Didn't do it at
5 all. Then if the recipient fails to demonstrate HUD's
6 satisfaction that the activities were carried out in
7 compliance, HUD then may take certain remedial measures.

8 Those -- there's a list of them in the regulation.
9 This is provision three of 24 U.S.C. 578-107. Those remedial
10 actions, though, also have to be designed to prevent a
11 continuation of the deficiency, to mitigate it, and to prevent
12 its recurrence. They're much more measured than just cutting
13 someone off. That -- and HUD did not even try to follow this
14 regulatory structure.

15 The Court has in the record an example of where HUD
16 has followed this regulatory structure, and that is with
17 respect to the conflict issue with regard to Dr. Adams Kellum.
18 And we've attached the letters to Mr. Pelham's declaration, and
19 the Court can look at -- this is how this is done. You get a
20 letter from HUD's local field office, and it says, we are
21 examining this. Please send us all this information. And you
22 do that, and then they come back with a finding. And in that
23 case, as we've said, the finding was, okay, it's been resolved.
24 You updated your conflict of interest policy check, done.
25 There was, in fact, no conflict. There was just a failure to

1 disclose it as quickly as possible to HUD.

2 So in fact, the conflict itself was addressed, and
3 that's how that process works. Should work at the field level,
4 and then go up. This is not that. I mean, this is why this
5 Court can look and say, this actually is pretextual. It's top-
6 down. It doesn't follow the way the regulations are usually
7 applied.

8 The second way in which the Court can find that HUD's
9 actions were contrary to law is that the HUD violated the
10 HEARTH Act because it made no findings that the CoC did not
11 meet the requirements of the HEARTH Act. And I'm sure that the
12 CoC is going to address this factor as well, but we've also
13 addressed it in our papers.

14 The requirements of the HEARTH Act are in the HEARTH
15 Act, 42 U.S.C. 11-360. They're not, again, this whole
16 suspension and debarment regime. If they're going to find, if
17 HUD is going to purport to find that the CoC does not meet the
18 requirements of the HEARTH Act, then it has to look at the
19 HEARTH Act, and its implementing regulations. And those
20 requirements include things like the CoC charter, designing the
21 collaborative application process, all those things that the
22 CoC is supposed to do, and then delegate doing. That's what
23 HUD would really look at and would have to analyze if it were
24 going to reach a conclusion that the CoC was not meeting its
25 requirements. There's nothing like that. That June 18th

1 letter, as the Court knows, is a page and a half.

2 The third way in which HUD has acted contrary to law,
3 and this is related to the second point, Your Honor, is
4 usurping the CoC's role that Congress created to give power to
5 the region. Without these findings, without HUD finding that
6 the CoC was not meeting its responsibilities, there also was no
7 basis for this remedial measure of direct-to-HUD solo
8 applications. There's just no way that that test is met, Your
9 Honor, without actually going through what the requirements of
10 the HEARTH Act are as applied to the CoC.

11 And finally, Your Honor, under the contrary-to-law
12 factor, HUD has failed to obligate the fiscal year 2025 grant
13 funds. They must sign the grant agreements, they must obligate
14 these funds, where Congress gave it a non-discretionary
15 timeline. They had 45 days to do it, they have not done that,
16 and there's a lot of irreparable harm that I'll get to at the
17 end, Your Honor, with respect to not signing those grant
18 agreements.

19 We have service providers, they're here in this
20 courthouse, whose grants expired in quarter one or quarter
21 two. We're already starting to see additional grants expire in
22 July. Your Honor, these actually are boots-on-the-ground
23 service providers in LA County, serving people that were
24 unhoused. These are domestic violence programs, these are
25 programs for the disabled. These people now have depended on

1 these awards, which have been awarded. They have an award
2 letter, but HUD has not carried through. And really, HUD runs
3 late on these things all the time. The criticisms about timing
4 are a little rich, because the NOFO this year and last year
5 were months late. The grant agreements are routinely late from
6 HUD.

7 So I think this is just a negligence, that these
8 weren't done in a timely manner, but once the letter goes out,
9 they're taking advantage of the fact, and these are real
10 organizations that have relied on this money to meet their
11 budget that will literally not be able to serve people very
12 soon and are running at a deficit if these funds don't come
13 through.

14 Let me turn, Your Honor, then, to the arbitrary and
15 capricious prong. So under the arbitrary and capricious prong,
16 Your Honor, we have to look at what the action -- what the
17 standard is for suspension. A suspending official may impose
18 suspension only upon determining the adequate evidence --
19 there's adequate evidence of a cause for debarment, and that
20 immediate action is necessary to protect the public interest.

21 And I'm going to address both of these, but as I said
22 up front, Your Honor, there is no need for immediate action
23 here, and that the claim that there is is disingenuous when
24 LAHSA has been approved for grants for decades, when many of
25 these facts, many of the sources they cite were well-known to

1 them, they've closed investigations such as conflict of
2 interest and accepted that there actually was no merit and
3 moved forward on them, and then just this year, literally eight
4 days before the letter comes out, they approve LAHSA itself for
5 further funding.

6 There's just no way, given those approvals this year
7 of LAHSA's grants, they can then say eight days later, there's
8 a need for immediate action. There is not.

9 First, as to adequate evidence though, Your Honor,
10 HUD claims that there is a violation of the terms of a public
11 agreement or transaction so serious as to affect the integrity
12 of a federal agency program. They haven't identified a
13 violation. Even if the Court takes as true the things in the
14 letter, which you should not, and again, our facts are
15 unrebutted, we've put in declarations. We've responded to each
16 of those. Some of what they say in the letter is just
17 false. It's just flat out untrue. And we actually have gone
18 through each one of those findings and distinguished them or
19 explained them all. You should accept that because it's
20 unrebutted.

21 But that said, even if the Court takes them as true,
22 I know the Court has done many criminal cases. Many of us in
23 this courtroom were former Assistant United States Attorneys.
24 There is -- you know, the Court knows what it looks like when
25 you find a violation of law and you explain that, and then you

1 actually back up specific facts that speak to that violation.
2 You can't claim there's a violation of a terms of public
3 agreement. You can't claim there's a false certification
4 without actually saying, here's the certification and here's
5 the reasons it's false, or here is the provision of the
6 agreement that you signed. And here's how the things you said
7 are false. Their response to that is to say, well, you've made
8 a lot of certifications over the years about you have an
9 internal controls. Yes, those are made in good faith. Those
10 are made based on the systems that someone like Ms. O'Neill
11 sits in a meeting and talks to you and gets her certifications
12 from her people who work for her about the controls they're put
13 in place. Those are not false certifications simply because
14 you later have an audit that finds that a particular control
15 was missed for that particular year. I think the Court knows
16 this.

17 So even if you take all of those together, there's no
18 nexus between this like hodgepodge of facts and actually any
19 particular violation of an agreement. And there's also no
20 cause so serious or compelling to affect present
21 responsibility. Suspension may only be used to exclude persons
22 who are not presently responsible. And on that basis, Your
23 Honor, I think you should just reject all of this old evidence.
24 You've been doing this longer than I have, but the Court knows
25 that there's a world of difference between the systems and the

1 data that we have now and what something looked like in
2 2007. And it's different management and it's different
3 personnel and the Court should just reject that outright as
4 stale.

5 We have to look at present responsibility. And
6 present responsibility also requires the Government to look at
7 whether corrections have been made. Of course, they're not
8 willing to do that and they simply say when we say corrections
9 have been made, anyone can say they make corrections. They
10 have to consider those corrections. And again, Your Honor,
11 LAHSA is a public entity and is a joint powers entity. So it
12 has many masters. It has many funders who do their own audits
13 or reviews or assessments. All are at different levels of
14 detail. As a public entity where nearly everything it does,
15 Your Honor, is publicly available on the website, it's part of
16 that transparency that there would be audits, reviews, and
17 assessments. That those audits, reviews, and assessments would
18 flag things that LAHSA should work on. That's how public
19 companies work that are traded on the stock market.

20 The whole point to having that accountable system is
21 for those changes to be made to prevent bigger problems. So,
22 Your Honor, there is no adequate evidence. There also is no
23 need for immediate action. And HUD doesn't even address this
24 prong, really. There is no need for immediate action. Their
25 argument is just simply circular. They just say, well, it's

1 not a responsible actor, therefore we need immediate action.
2 That is not actually the analysis that they need to do to show
3 that immediate action needs to happen right now to suspend
4 LAHSA.

5 There's a lot of places in their brief where they
6 say, well, we need to at least look into this. Fine, look into
7 that. The fact that they want to look into something or to
8 investigate something or to audit something does not show that
9 they need to immediately suspend LAHSA in order to do it. And
10 they absolutely have to show for the suspension to be lawful
11 that there was a need for immediate action.

12 HUD's claim that immediate action needed is also
13 undermined by the staleness of its evidence, old evidence that
14 they've sat on for a long time, clearly, Your Honor, cuts
15 against any immediate need to move on this. And two, the fact
16 that HUD just awarded loss of funds in April, May, and June, as
17 I've already said. I think, Your Honor, that definitively cuts
18 against any immediate action argument.

19 HUD never explains to Your Honor how its actions
20 affect the continuity of services to the housed. There's no
21 analysis of this at all. So, Your Honor, the suspension test
22 here is just simply not met. As a matter of the APA law, Your
23 Honor, also HUD is required to consider the reliance interests
24 of others. And this will overlap with our irreparable harm
25 argument, Your Honor. But there are substantial reliance

1 interests here. Again, as the Court well knows, for having
2 administrated the LA Alliance matter for all these years.
3 Those reliance interests include the sub-grantee service
4 providers, as I referred to, Your Honor, the boots on the
5 ground. And those service providers, Your Honor, are harmed in
6 two ways. First, by the unexecuted grant agreements. The fact
7 that awards were made that they have relied on as part of their
8 budgets and prior providing services, and then HUD has just
9 stalled and not signed the grant agreements and funded them.
10 And also, those -- they're also harmed because many of these
11 same service providers are not in a position to directly
12 apply.

13 So getting to the direct-to-HUD, you know, proposed
14 remedy, we've given you two declarations, and I believe both of
15 our declarants are here, Your Honor, Penny Lane and House of
16 Ruth. Both who serve a variety of populations but include
17 domestic violence survivors. And both of those entities, Your
18 Honor, are both ones whose grants expired in Q1 and have been
19 operating for more than a quarter without the funds that they
20 were awarded. And two, they have said they are not in a
21 position to directly apply.

22 So these small service providers, many of whom are
23 strung out in different areas. One of them is out in east, you
24 know, east Los Angeles County somewhere, Claremont, I believe.
25 Many of them are in, like, smaller places like that, Your

1 Honor. These people need funds, too, and they need to apply as
2 well. And they rely on the collaborative applicant to do
3 that.

4 The reliance interests also include local government
5 entities who may not receive the data they need or whose own
6 attempts to implement good policy are interfered with if LAHSA
7 goes offline or if LAHSA can't fulfill its delegated duties.
8 There is no substitute, as I said, Your Honor, for LAHSA's
9 services with respect to the HMIS database and the Coordinated
10 Entry Program and the PIT and the HIC accounts. There's no
11 substitute for that. Everyone needs that data. That is not
12 expertise that can just be transferred.

13 And they fail to consider the reliance interests,
14 Your Honor, of the unhoused, including 25,000 people in the
15 Coordinated Entry System that are pending permanent housing and
16 the 11,000 individuals served by federal funding. There's no
17 consideration of this. They pay lip service to doing this on
18 behalf of the unhoused. It cuts exactly the other way, as I
19 think the Court knows. They have not considered these
20 interests.

21 And I'll return to this a little bit further on
22 irreparable harm, but at this point, I'll turn to my colleague
23 to address the constitutional law arguments.

24 **THE COURT:** Thank you. Are all counsel still
25 comfortable without a recess at this time or would you like a

1 recess? All right. Then let's hear your argument, please.

2 **MR. MALZAHN:** Good morning, Your Honor. This is
3 Scott Malzahn on behalf of LAHSA. And as my co-counsel
4 indicated, I'll be handling the constitutional claims here.
5 The actions taken by HUD are, in effect, an attempt by the
6 executive branch to substitute its judgment for the will of
7 Congress. HUD's actions not only violate statutory law, not
8 only violate the APA, but also violate the U.S. Constitution
9 and the Tenth Amendment. And in particular, I'm going to focus
10 on the Separation of Powers Doctrine, the Appropriations
11 Clause, and the Take Care Clause.

12 Now, HUD argues in its briefing that LAHSA's
13 constitutional claims merely recast the statutory claims as
14 constitutional ones. And as support for this argument, HUD
15 relies on out-of-circuit authority from the D.C. Circuit that
16 is distinguishable. It doesn't cite any case law from the
17 Ninth Circuit for this proposition. And as this Court is well
18 aware, it's bound to follow Ninth Circuit law. And the law in
19 this circuit is clear. In Sierra Club v. Trump, which was
20 issued in 2019, the Ninth Circuit held that statutory and
21 constitutional claims are not mutually exclusive. They can
22 coexist with one another. And the Court in the Ninth Circuit
23 has laid out the test that governs here. A challenge to
24 executive action will be considered constitutional and
25 judiciable so long as the plaintiff shows that the executive

1 action lacked both statutory authority and background
2 constitutional authority. And here, you have both of those
3 elements present.

4 My co-counsel has already discussed in detail how
5 there is a statutory violation here and how the various
6 remedial actions taken by HUD lack statutory authority. I'll
7 touch on those in this argument as well, but they provide part
8 of the basis, not the sole basis, for the constitutional
9 claims.

10 There are three main arguments here on the
11 constitutional front. First, I'd like to focus narrowly on
12 these grant agreements that remain unsigned, even though award
13 letters were issued as recently as May and June of this year,
14 shortly before the HUD suspension went into effect.

15 Under Article I of the Constitution, Congress was
16 given the power of the purse. It has the appropriations power.
17 And the purpose of the appropriations clause is to assure that
18 public funds will be spent according to the judgments reached
19 by Congress, not according to the individual favor of
20 Government agents. The executive branch's corresponding
21 obligation under Article II of the Constitution is to
22 faithfully execute the law, and that's not what it's doing.
23 Instead, it's seeking to substitute its policy judgments for
24 that of Congress.

25 Now, remember, as my co-counsel indicated before,

1 there's a statute here that was passed by Congress that lays
2 out exactly how HUD is supposed to act. And the obligations
3 there are not discretionary. It's mandatory. Under 42 U.S.C.
4 Section 11382, section (d)(2), Congress imposed a 45-day clock
5 on when HUD must, quote, obligate funds. That means once an
6 award letter is issued, HUD is required, mandated, to obligate
7 the funds for the grant within 45 days, and it hasn't done
8 that. Instead, even though it had issued award letters in May
9 and June, it just decided to not sign any grant agreements,
10 despite the fact that there are all these reliance interests,
11 service providers and LAHSA, expecting, according to the
12 statute, that they'd be receiving these funds.

13 You know, the Court in Pacito v. Trump talks about
14 what the word shall means, which is a pretty simple thing. The
15 word "shall" imposes a mandatory duty. This isn't a case where
16 HUD has discretion to not sign the grant agreements. These
17 grant agreements cover a wide range of services. They deal
18 with, you know, funds that are necessary to support HMIS, CES,
19 and CoC planning. It also covers subgrantees. These are
20 essential services for the provision of homelessness services
21 in the LA region. And HUD does not have the unilateral
22 authority to just refuse to spend the funds. There is no
23 dispensing power within the executive branch. That's a basic
24 canon of constitutional law that dates back, you know, more
25 than 50 years.

1 You know, recently the Ninth Circuit has dealt with
2 these issues in city and county of San Francisco v. Trump,
3 where it found that an executive order that imposed a funding
4 freeze on sanctuary cities violated the separation of powers,
5 because the administration had not even attempted to show that
6 Congress had authorized it to withdraw grant money from
7 jurisdictions that did not agree with the current
8 administration's immigration strategies.

9 Another decision, although not from the Ninth
10 Circuit, but from a district court up in Oregon, I think is
11 particularly instructive here. That is Oregon Council v.
12 the United States DOGE Services. And we discuss it quite
13 extensively in our brief. What this case and that case share
14 in common is a very detailed statutory scheme created by
15 Congress that imposed mandatory duties on a federal agency.
16 And rather than follow the specific guidelines set forth in the
17 statute, the administration went off script and just elected
18 its own policy choices to implement in contravention of the
19 will of Congress, and that is a constitutional violation.

20 So the second argument that I'd like to focus on from
21 the constitutional perspective is the suspension of LAHSA as a
22 collaborative applicant. Once again, HUD here is improperly
23 seeking to substitute its policy choices over the legislative
24 choices that Congress made. It's clear through this direct to
25 HUD application process that HUD now wants to run the show.

1 That it wants total discretion over how funding is dispersed,
2 at least within the City of Los Angeles. Maybe this is a first
3 step. Maybe they'll be seeking to expand that to other
4 jurisdictions, but that's not what Congress decided when it
5 enacted the HEARTH Act. There's a very detailed statutory
6 scheme that sets out how this works, and under that detailed
7 statutory scheme, there's supposed to be one collaborative
8 applicant for the region. And that one collaborative applicant
9 helps set the priorities, ranks individual projects,
10 coordinates with local and state entities and other
11 stakeholders, and puts together the consolidated application.

12 It was Congress's will to empower the local
13 community, so that the local community would be able to drive
14 decision making that was best at the local level. This direct
15 to HUD application process just ignores the statutory scheme
16 that Congress created, and instead seeks to substitute its own
17 judgment for that of local jurisdictions.

18 Similarly, you can see that in that they're trying to
19 disband the LA CoC, concluding that it's unable to execute its
20 responsibilities in the absence of a collaborative applicant.
21 So this is a violation of the Constitution. It violates the
22 separation of powers, and HUD doesn't have the authority that
23 it seeks.

24 The third argument I'd like to briefly touch on is
25 the Tenth Amendment claim, which in some respects is similar.

1 I think the strength of this claim depends in part on how far
2 HUD is seeking to push its actions. And it appears, although
3 their remedial letters have been vague at various points, that
4 they're effectively seeking to shut down LAHSA from performing
5 any services, from performing the essential work that's needed
6 to run the HMIS system, CES. These databases that help make
7 the entire system work for better or for worse in the region of
8 Los Angeles. And if the HUD is coming in here and trying to
9 shut down basically state and local governments from addressing
10 the problem of homelessness entirely, that raises serious Tenth
11 Amendment concerns.

12 I'll now turn the argument back to my co-counsel.

13 **(Pause)**

14 **MS. AXEL:** And, Your Honor, I will address
15 irreparable harm and the public interest, which are obviously
16 very related here in concluding my argument. Strikingly, as we
17 pointed out in the reply, HUD says very little about
18 irreparable harm, Your Honor, and that's because LAHSA has
19 conclusively proven it. There is no merit to HUD's claim that
20 LAHSA failed to show harm to itself. The case law is clear
21 that any significant change in programs with a concomitant loss
22 of funding constitutes irreparable harm in an APA case.
23 Ongoing harm to an organizational mission, diversion of
24 resources, non-speculative loss of funding satisfies the
25 standard for irreparable harm. All of those apply to LAHSA.

1 LAHSA itself suffers direct harm from the suspension,
2 exclusion from future federal transactions, inability to fund
3 nearly 100 employees, and exclusion from a funding competition
4 that cannot later be undone once the application window closes.
5 There is also substantial harm to third parties, Your Honor.
6 And you can consider that both under the irreparable harm prong
7 and under the public interest prong. And that's because those
8 third parties here are LAHSA's stakeholders, the City and the
9 County. We are part of, of course, the joint powers agency.
10 And also the service providers that LAHSA serves as its sub-
11 grantees. Your Honor, those are part of LAHSA's organizational
12 mission. So LAHSA's organizational mission includes all of
13 those service providers. And indeed, it even includes the
14 unhoused population that it serves, because LAHSA's entire
15 mission is to serve the unhoused.

16 Dividing up the irreparable harm argument by each of
17 LAHSA's functions, as I structured the argument in the first
18 place, with respect to all of sort of the data management that
19 LAHSA engages in, the HMIS system, the CES system, the PIT and
20 HIC accounts, suspension would immediately harm LAHSA on all of
21 those functions, leading to the layoff of at least 100
22 employees. Suspension would also harm the intervener, CoC,
23 making it impossible for the CoC to fulfill its congressionally
24 mandated duties of providing and serving the HMIS system, the
25 homeless and infantry accounts, and the CES, which moves people

1 into permanent supportive housing. It would harm the City and
2 the County, the stakeholders and the service providers. As to
3 HMIS, Your Honor, like the numbers are staggering. 400
4 agencies in the county use that system. There are nearly 8,000
5 users. There are more than 20,000 customer service tickets
6 that are issued associated with people having questions about
7 the services. LAHSA serves all of those.

8 It would also harm, and I know the Court is very
9 concerned about this, the 175,000 to 250,000 clients, meaning
10 unhoused people in the HMIS system at any given time, and
11 25,000 people awaiting permanent housing in the CES system.
12 HUD's only response to that is speculation. Well, maybe
13 somebody can come in and serve those. The Court should not
14 countenance speculation here. That's all it is, is
15 speculation.

16 As established here, and I know the Court is familiar
17 with Bevin Kuhn, who testified in the Alliance matter, there
18 are 50 people alone on the HMIS system. She identifies an
19 example of an employee that took one year to get onboarded to
20 actually -- the systems are so complicated, as the Court, I
21 think, understands too. The HMIS system and the RMS system
22 have to speak to each other and actually for the coordinated
23 entry system to work, to actually identify people and move them
24 into permanent supportive housing. That process of making
25 those systems speak together is complex and it's taken years to

1 effect. And now it operates very smoothly and well, but there
2 are dedicated people who know that, who operate that. They
3 work at LAHSA.

4 There is no speculation that somehow you're going to
5 just, what, move those people to somewhere else? No. I mean,
6 again, we're in a land of speculation that is not appropriate
7 in the context of analyzing irreparable harm. The Court's job
8 is to analyze irreparable harm on the record before it. And
9 the record before it here is that LAHSA is the moving party,
10 LAHSA is the plaintiff, and LAHSA is the one who would suffer
11 all of these harms. And everything else is just speculation.

12 I'm sure that they will also note, and I know that
13 the Special Master put this in the record, that the County and
14 the City have offered to work together somehow to take over
15 these functions. Again, the City and the County have a well-
16 established path to work together and that is LAHSA. And that
17 has been working for decades. It's imperfect. We're not here
18 to say it's not. You know, the Court knows all the issues.
19 But those entities working together is complicated and this is
20 a structure for them to work together. And they have done it
21 successfully with respect to these systems, again, as the Court
22 well knows.

23 So the speculation that somehow something else would
24 happen and take its place, the Court should not engage in that.
25 LAHSA exists to perform these functions, does it well, and they

1 would not easily be transferred and restructured into something
2 else. As the Court knows, that would be another, you know,
3 decisional nightmare.

4 Moving to the consolidated application, Your Honor,
5 with the August 26th deadline looming, LAHSA's suspension harms
6 the entire region in denying it the ability to submit a
7 consolidated application. That's the best way for it to access
8 all of the available 241 million in federal funding that would
9 be available for 2027. There's no way to transfer that
10 collaborative application at this point. Work began months
11 ago. We provided the declaration of Jessica Reed, Your Honor,
12 who is the person most knowledgeable on this. This is her
13 entire job. There is a detailed process of evaluating, ranking
14 service providers against the metrics and the priorities that
15 HUD established. So to the extent HUD in its new NOFO
16 identifies priorities, that it has changed somewhat this year's
17 NOFO from prior years, LAHSA is the best person actually to
18 rank and sort and actually meet those metrics that HUD
19 provides.

20 There's a lot of due process that's built into this
21 process. Many service providers want to be considered.
22 There's a process by which LAHSA has evaluated those
23 applications. They've provided hearings. They've actually
24 allowed people to challenge them. There's an appeal process.
25 All of that has already happened. We provided a page of the

1 PowerPoint that showed the ongoing activities, and in fact,
2 LAHSA's entire 2026 NOFO planning schedule is available on the
3 internet. We've printed copies should the court be interested
4 in looking at them. These planning activities have been
5 happening since January.

6 The actual application, Your Honor, again, it's
7 pretty rich when HUD complains about timing issues. The actual
8 NOFO application has not yet been released. So the form
9 itself, they know what the NOFO is. They know what the metrics
10 are that they're going to have to meet, and there's a detailed
11 explanation of what priorities HUD has this year. But the
12 actual application that one needs to fill out is not released.
13 That last year was a 126-page document alone. And in addition
14 to that, each of the direct service providers, the direct
15 applicants and the sub-recipients have each pages, separate
16 pages that have to be filled out.

17 These have to go into HUD's e-SNAP system, which is
18 not an easy system to operate. Ms. Reed has been offering
19 office hours so that other direct applicants actually can sit
20 with her and learn like what they're going to need to do to
21 fill out these forms. And when the actual application is
22 released, it's a complex grant writing exercise, and it's going
23 to have to be done on a very short-term time. Submissions are
24 needed for the entire CoC, and it will require a lot of
25 data. And as I started with at the beginning, Your Honor,

1 then it's scored. So you can't just throw this together. You
2 have to know what has been successful in the past, what HUD is
3 looking for with respect to certain answers, what sort of data
4 one needs to submit. It requires a dedicated team that has
5 experience, particularly on such a short timeline here.

6 HUD's proposed solo application process would also
7 cause irreparable harm. That's HUD's unlawful alternative. As
8 I said, no later ruling would restore LAHSA's role in a
9 competition it was excluded from. So that's irreparable harm
10 to LAHSA should the suspension be reversed. It would deny
11 funding to service providers who depend on the collaborative
12 applicant. As I mentioned, many of these service providers
13 can't do this themselves. They rely on the collaborative
14 applicant to put together the consolidated application and help
15 them fill out all their forms. It would deny the CoC the
16 ability to have the voice that Congress intended, and it would
17 entirely disrupt the system, leading to funding gaps, causing
18 people to lose housing vouchers and be back on the streets.

19 And I want to just cover that because it's a slightly
20 different point, Your Honor. When the consolidated application
21 goes in and LAHSA prepares it, the CoC approves it, the entire
22 region knows exactly what is being applied for. And pursuant
23 to HUD's policies, they generally approve at least the renewal
24 applicants. They have strong congressional mandates to do
25 that, to approve the renewal applicants. That provides the

1 region knowledge in advance to plan. So I know the Court is
2 very concerned about gaps in the system, and much of the LA
3 Alliance has been trying to address gaps in the system,
4 particularly with respect to transitional housing. What
5 happens with the consolidated application is the region, the
6 CoC, and all of the stakeholders can look and say, okay, HUD is
7 likely to fund these people, these types of services. We then
8 can plan to go fund these types of services. And traditionally
9 that has been -- HUD has done more permanent supportive
10 housing, literally housing vouchers. And then that has left
11 the state and local governments to fill the need with more
12 getting people off the street.

13 Again, I know the Court is very familiar with that.
14 But so what happens if there's no consolidated application?
15 What happens if there's direct applications to HUD? The region
16 has no idea what to expect. All of a sudden, in January 2027,
17 HUD may make its own priorities, announce totally different
18 recipients from previous years, and, in fact, they may be
19 funding people that the City or the County used to fund
20 organizations, while people who are now receiving housing
21 vouchers, because HUD traditionally paid these providers, all
22 of a sudden are on the streets, back on the streets, because
23 their housing vouchers are not being paid. That consolidated
24 application is so critical to allowing all of these funders to
25 make their determinations. And that, Your Honor, then, is the

1 irreparable harm, another aspect of irreparable harm that the
2 Court can consider.

3 There is also irreparable harm happening right now
4 today, not in the future, with respect to the grant agreements
5 not signed, the awards that we're making. We're talking about
6 2027 funding based on the 2026 NOFO. But actually, right now,
7 we are in the fiscal year 2025 based on the 2024-25 NOFO. And
8 after litigation and congressional intervention and the facts
9 set forth in our brief, Congress had to get involved, because
10 HUD actually has to release its NOFO in the summer and didn't
11 release the 2025 NOFO until November. And then there was
12 litigation to enjoin it, which was successful. The District
13 Court of Rhode Island enjoined that.

14 After that, Congress stepped in and said, we're
15 appropriating the 2025 monies. HUD, spend it. Make these
16 award letters and do them by X date, and HUD did that. They
17 simply approved all of LAHSA's previous 2024 grants for 2025.
18 But there we're stalled.

19 So now we're in fiscal year 2025 from a funding
20 perspective. But with the grant agreements not signed, none of
21 that funding is happening. And so as grants expire from Q1
22 forward, and these are the service providers I talked about,
23 and LAHSA itself, whose planning grant just expired in June,
24 all of those now are not being funded for fiscal year 2025,
25 although those awards have been made and Congress required them

1 to be made. That's immediate harm. That hurts LAHSA. LAHSA's
2 already performed significant functions in reliance on the
3 grant money, including just even during the time, Your Honor,
4 since we've moved this court for a preliminary injunction,
5 LAHSA published the PIT count, I mean, again, it's doing the
6 responsible thing to continue to try to serve these functions.
7 I'm sure that the HUD is going to rely on that PIT count as it
8 always has in the data that it gives Congress. LAHSA continues
9 to move forward. LAHSA continues to work with HUD's TAs on the
10 various aspects of its programmatic functions, and it continues
11 to work on the consolidated application, but it's not being
12 funded for that.

13 It also hurts service providers. As we mentioned, as
14 of June 30th, 12 service providers were operating without
15 funding. As of July 31st, updating the information from the
16 court from our briefing, five more had their grants lapsed, and
17 many of those providers are people who serve the disabled. So
18 the failure to fund these agreements, Your Honor, is causing
19 real human need.

20 Again, Your Honor, our evidence of irreparable harm
21 is overwhelming and unrefuted, and that evidence also, Your
22 Honor, carries the day in terms of the public interest. The
23 public interest favors LAHSA entirely. HUD's claims that it
24 intends to secure funds for the unhoused through this action is
25 disingenuous. It's refusing to sign agreements to implement

1 awards to providers of services for the unhoused right now.
2 It's refusing to give the 2025 monies. How is that helping the
3 unhoused?

4 HUD's path of solo applications would also create
5 funding gaps and, as I explained in detail, throw the whole
6 system into disarray. Some service providers cannot apply
7 directly. They simply would not be able to get any funding
8 from HUD for 2027, even though they may have relied on it for
9 many years.

10 We provided you two declarations, including
11 organizations who serve survivors of domestic violence. As I
12 mentioned, the five providers who just fell off of funding
13 mostly serve the disabled. Many of these providers need a
14 collaborative applicant. This threatens the receipt of 241
15 funds, 241 million in funds for 2027, and that HUD funding
16 currently serves more than 11,000 people across 7,500-plus
17 households.

18 The solo applications also would cause the region not
19 to know who applied. As I explained before, that also cuts
20 against the public interest. And, Your Honor, I'm sure you're
21 going to want to discuss, it also will make it very difficult
22 for the City and the County to implement the settlement without
23 the backbone of support that LAHSA provides through all of
24 these systems. Coordinated entry is critical. HMIS is
25 critical. LAHSA's counts are critical. All of that, all of

1 the parties to your LA Alliance team need in order to comply
2 with the settlement.

3 So, in summary, Your Honor, I think, as we said, we
4 think there are direct legal issues here the Court can raise --
5 can reach on what we think is an overwhelming record. There
6 are violations of the APA and the Constitution that the Court
7 can easily find. And we're asking for a stay pursuant to
8 Section 705 of the APA and a preliminary injunction pending
9 hearing on a permanent injunction.

10 **THE COURT:** All right. Thank you. Counsel, we'll
11 take a 15-minute recess and come back at that time. We'll hear
12 arguments next if it's acceptable to all parties from HUD.
13 Thank you.

14 **(Recessed at 10:21 a.m.; reconvened at 10:42 a.m.)**

15 **THE COURT:** All right. Let's call the court back to
16 order then if you'd be seated. And on behalf of HUD, would it
17 be acceptable if HUD argues this matter next or would you like
18 the city or county to proceed here?

19 I'll get to the COC in just a moment, I want to hear
20 from HUD next. What's your preference?

21 **MR. HA:** We're okay if the COC argues first.

22 **THE COURT:** COC argue? All right. Agreement of
23 everyone, hopefully, then the COC will argue next.

24 And once again just identify yourself for the record
25 because we're on CourtSmart.

1 **MS. MYERS:** Thank you, Your Honor, Shayla Myers from
2 the Legal Aid Foundation of Los Angeles. On behalf of the
3 plaintiff intervenor Los Angeles Continuum of Care. And, Your
4 Honor, since we're joining the case now we don't want to add
5 significant additional arguments that HUD didn't have a chance
6 to previously add to, but we are going to address some of the
7 significance of the preliminary injunction and why it's
8 necessary for purposes of the continuum of care and preserving
9 the status quo.

10 Your Honor, where Ms. Axel left off on behalf of
11 LAHSA is where I want to start, which is the irreparable harm
12 and the public interest that is served by a stay, but more
13 importantly, the public interest that is not served by a
14 suspension of LAHSA.

15 HUD has made the decision in this case to move
16 forward with an immediate suspension of the Los Angeles
17 Homeless Services Authority, an agency that is responsible for
18 coordinating the homeless service response system for tens of
19 thousands of unhoused people. They are responsible for the
20 delegated duties of the continuum of care. They coordinate the
21 HMIS system, they coordinate the CES system, they submit the
22 collaborative application on behalf of the continuum of care
23 and they also coordinate the homeless response system with
24 funding resources throughout the region.

25 HUD made the decision to immediately suspend LAHSA.

1 When it made the decision to do that, it had a statutory and
2 regulatory obligation to do so only if the immediate suspension
3 was necessary to protect the public interest.

4 And, Your Honor, they did not make that finding and
5 procedurally and substantively. Their failure to do that means
6 that this case is incredible straight forward in terms of the
7 substantive legal issue that it presents Your Honor with.

8 Your Honor, HUD had its disposal other remedial
9 measures and other ways to address any concerns that it had
10 about LAHSA's performance. There's no question, Your Honor,
11 that if HUD had believed based on the record before it, built
12 over years that they submitted on their June 11th letter, that
13 they could have moved forward with debarment procedures against
14 LAHSA.

15 If they had done so then, Your Honor, LAHSA would
16 have been entitled to pre-depravation notice and an opportunity
17 to be heard before those proceedings kicked in. And, Your
18 Honor, from my client's interest, the COC would have been given
19 an opportunity to take measures to ensure that the COC could
20 continue to perform its congressionally mandated obligation to
21 coordinate services on behalf of the community.

22 Your Honor, HUD also could have taken the approach of
23 moving through the regulations that apply to the COC. And that
24 is under 24 CFR 587.107 and my colleague at LAHSA mentioned
25 those regulations as well.

1 And that procedure, Your Honor, specifically applies
2 to grants and recipients of grants through the continuum of
3 care program, which is the distinct program that is at issue
4 here for purposes of HUD suspension of LAHSA.

5 And under that procedure, Your Honor, had HUD taken
6 those steps again, they would have been required to provide
7 notice and an opportunity to be heard before taking remedial
8 measures against LAHSA and again for purposes of the COC, the
9 COC would have been in a position to address accordingly.

10 Your Honor, both of those are strong procedural
11 remedies that were available to HUD and HUD chose instead to
12 drop a bomb into the region and disrupt the most stable part of
13 the homeless services response system, which is the continuum
14 of care, which is built on federal funding.

15 When HUD chose to do that, to take the extreme
16 measure of immediately suspending LAHSA, it had an obligation
17 to do so and find that it was necessary to protect the public
18 interest.

19 Your Honor, in that regulation, 2 CFR 180.700 that
20 regulation has constitutional significance, Your Honor, for
21 purposes of due process. Because we all know that in general
22 when the government wants to take an action like suspension, in
23 general, entities are entitled to pre-deprivation notice and an
24 opportunity to be heard.

25 Which is why for purposes of the regulation, the type

1 of immediate suspension that HUD has taken against LAHSA is
2 available only in those circumstances where it is necessary to
3 protect the public interest. Your Honor, that is simply not
4 the case here.

5 As Ms. Axel pointed out for purposes of outlining
6 the harm that is occurring in the community now, the immediate
7 suspension is causing irreparable harm to the community. It is
8 causing irreparable harm to the continuum of care which will be
9 deprived of its ability to submit a congressionally mandated
10 collaborative application.

11 And it is also causing instability in the most stable
12 program that this region has when it comes to homelessness
13 services, Your Honor. And the harm that that is causing is
14 being felt, as LAHSA also pointed out, it is being felt by
15 service providers, by government entities, it is being felt by
16 everyone associated with the continuum of care and it is being
17 felt by the community of unhoused residents who have done the
18 incredibly hard work to get off the streets. And they rely on
19 the funding and stability that the COC provides here.

20 Your Honor, we know that HUD did not take the public
21 interest into account. And the one significant thing that I
22 will add is that HUD has taken the position that the continuum
23 of care will be suspended and effectively disbanded if LAHSA's
24 suspension remains in place.

25 But HUD never took that fact into account when it

1 assessed the public interest at stake in suspending LAHSA.
2 Your Honor, and that is incredibly significant for purposes of
3 APA violations here.

4 HUD was aware of the implications of suspending LAHSA
5 on the COC. They have said that from the beginning. They said
6 that since June 18th, if they suspended LAHSA, then the COC
7 would be disbanded, and there would be a direct to HUD
8 application process.

9 HUD never considered the implications of that when it
10 moved forward with its suspension, even though under the
11 Administrative Procedures Act it was required to consider the
12 significant outcomes and the significance of the implications
13 to third parties, but that is a significant factor that HUD
14 never considered when it moved forward with the immediate
15 suspension.

16 And to be clear, Your Honor, the impact and
17 significance of the direct to HUD application process cannot be
18 understated. The entire purpose of the continuum of care
19 program as mandated by Congress is that it gets all the
20 stakeholders in the room and the stakeholders decide together
21 collectively what the regional priorities are and apply for
22 funding together.

23 As I said, when we moved to intervene, the COC's
24 positioning in the homeless response system is incredibly
25 important, because it serves as a temple of stability for the

1 rest of the region. It is a place where entities that don't
2 necessarily get along all the time come together to set
3 priorities together.

4 Just this week the COC board set the priorities for
5 the continuum of care for that funding. And by setting those
6 priorities, it allows other funders in the region to move
7 around that funding, that stable funding source.

8 But HUD by coming in and immediately suspending LAHSA
9 and in turn indicating that they will disband the COC and allow
10 direct to HUD applications have removed that congressionally
11 mandated function from the COC and prohibited the LA Region
12 from collaboratively and collectively deciding its own
13 priorities and setting its own stable path for the year.

14 And the disruption of that cannot be overstated, Your
15 Honor, if the COC's collaborative application if they are not
16 allowed to submit the collaborative application then it will be
17 a free for all with individual service providers applying
18 directly to HUD and HUD setting the priorities for the region
19 with disregard for what is needed or what the community has
20 prioritized themselves.

21 And that, Your Honor, is the Congressional intent of
22 the COC program, is it to rest that responsibility with the
23 community. HUD's implementation of immediate suspension
24 brought about that distinct result. And, Your Honor, HUD
25 failed to consider the implications of that when they decided

1 to move forward with suspension. And that, Your Honor, is a
2 very clear cut legal issue that is at stake in this case.

3 HUD's decision to immediately suspend LAHSA at the
4 timing that it did, suggests that HUD's decision to disband, to
5 suspend LAHSA and therefore disband the COC is the design, not
6 a bug, of HUD's actions at this point.

7 HUD has attempted in numerous other instances and in
8 numerous other ways to seize control away from communities for
9 purposes of community planning. Until now, Your Honor, those
10 efforts have been thwarted. First by Congress who continued to
11 dedicate resources and funding to the COC program to the tune
12 of \$4.1 billion.

13 Congress has reiterated its commitment to the COC
14 program and to community control. So Congress has stopped it.
15 Your Honor, other courts as well have thwarted HUD's attempts
16 to undermine the COC process by issuing rulings that have
17 prevented past years FY 20 -- past years NOFOs from going
18 forward, Your Honor.

19 This is just HUD's latest attempt to take community
20 control away and insert its own priorities into that funding
21 stream. They are attempting to do it to a single COC, but it
22 is the largest COC in the country to the tune of \$240 million.

23 And, Your Honor, there's a lot of money that comes
24 into the region, but that \$240 million is significant. It's
25 significant to the providers who receive it, to the funders who

1 supplement it, and to the 11,000 unhoused residents and who
2 have done the hard work of getting off the streets.

3 Some of them have been in this housing for decades,
4 who will potentially lose their housing as a result of the
5 disruption and if nothing else, they will lose the stability
6 that they have built by moving into this housing that has been
7 funded by the COC.

8 And, Your Honor, HUD has said that they -- they have
9 said that they are not necessarily moving forward with the
10 remedial measures against the COC, but they have made it very,
11 very clear that if LAHSA remains suspended, that they will move
12 forward with the remedial measures against the COC. Which
13 means they will effectively disband the COC. They will take
14 the COC's congressionally mandated obligation to bring
15 stakeholders together and set the priorities for the region.
16 They will take away the stability that is built by the
17 collaboration that occurs through the COC application process,
18 and they will put forward an unprecedented and illegal process
19 that is not supported by the statute or regulation that allows
20 individuals to apply directly to HUD.

21 They had said that they will do this on August 10th
22 or after this Court's ruling, whichever is first or whichever
23 is earlier. Your Honor, which means that as of August 10th HUD
24 intends to take remedial actions against the COC.

25 That action would itself be illegal. The 2026 NOFO

1 is currently subject to federal challenge in Rhode Island.
2 This amended NOFO has the exact same problems that the
3 underlying NOFO has in terms of HUD setting its own priorities
4 outside of congressional intent. And if -- Your Honor, if the
5 suspension remains in place against LAHSA, the COC would be
6 subjected to that illegal NOFO, which itself is a significant
7 harm.

8 Your Honor, we are here on behalf of the COC because
9 the impact of HUD's decision to immediately suspend LAHSA has
10 direct and significant impacts on the COC. HUD understood
11 those impacts, were the natural of its suspension, they made
12 that clear, but they never considered the impact on the COC.
13 They never considered what it meant to do an end run around the
14 congressional mandates that dictate the existence of the COC.
15 That unto itself is an incredibly straight forward legal issue
16 that itself is sufficient to support the likelihood of success
17 on the merits prong and it also supports the irreparable harm
18 and public interest at stake in this case. Thank you, Your
19 Honor.

20 **THE COURT:** Let me turn to HUD for a moment. Would
21 your preference be to have the city and county respond next,
22 would your preference be for you to argue on behalf of HUD at
23 this time? And the reason for that is, I'm not sure how the
24 city and county will align themselves, but I can speculate that
25 they may be aligning themselves as a real party in interest

1 because of the funding. So why don't you talk about it amongst
2 yourselves, so that there isn't a dual rebuttal for a moment.
3 Then you choose the order.

4 **(Pause)**

5 **MR. HA:** If we are fine if the city and county go
6 next.

7 **THE COURT:** All right. So the city and county then
8 would argue next and I think that's wisdom on your part so you
9 hear the arguments in case they are aligned.

10 And when you argue to the Court, on both of the
11 entities, I have previously written and expressed my belief
12 that the City and County in this matter are the real parties in
13 interest. That while LAHSA is the focal point of these
14 hearings to the joint powers agreement is the representatives
15 of the City and County representing the citizens of the City
16 and County that are real the parties in interest in this
17 matter.

18 And I've explicitly have stated that this in times
19 enable the cycle of blame shifting, when data inconsistencies
20 or compliance issues arise, the City points to LAHSA, in turn
21 LAHSA attributes its problems to a lack of information or
22 cooperation from the City. I've written quote, that this
23 dynamic has fostered a system in which responsibility with
24 entities is deflected, allowing both entities to evade
25 accountability with no single party willing to take

1 responsibility.

2 LAHSA has been subject though to various numerous
3 audits and reviews by various entities over literally decades.
4 These investigations have uncovered a dysfunctional system with
5 shortcomings that call into question its effectiveness. It
6 uncovered significant and substantial issues with LAHSA's
7 management of its finances and issues with recordkeeping. And
8 these issues are back decades.

9 So when you're arguing on behalf of all of the
10 entities, my response to each of you is, what took you so long?
11 What took you so long? You knew about the opinion of June,
12 when I handed down my initial decision, went back to decades
13 where HUD was on notice, auditor controller reports, the
14 County's own, you know, findings. And I also documented them
15 in the attorney's fees award that I handed down in January so
16 you're aware of them.

17 So for the City and the County, and by the way, you
18 also heard an argument that this is going to intertwine
19 potentially even the veterans lawsuit, that this has carryovers
20 to LA Alliance, it may have carryover to the intertwined
21 financing that goes on with the veterans lawsuit that's
22 pending.

23 So, counsel, who'd like to argue on behalf of the
24 County or the City, which one would like to go first? Pleasure
25 to see you.

1 **MS. HASHMALL:** Good after or I guess good morning
2 still, Your Honor. Mira Hashmall for the County.

3 Given the August 26th deadline to submit the
4 necessary funding --

5 **THE COURT:** Pull that microphone just a little closer
6 and, yeah, just because we're on CourtSmart. And would you
7 introduce yourself. I certainly know who you are, but once
8 again for the record, one more time.

9 **MS. HASHMALL:** Thank you, Your Honor. Mira Hashmall
10 here for the County of Los Angeles.

11 Given the August 26th deadline to submit the
12 necessary funding applications in response to HUD's NOFO, the
13 County believes that maintaining LAHSA's continued role as a
14 collaborative applicant is the best way to maintain stability
15 in the region, housing and support programs for people
16 experiencing homelessness.

17 If the Court decides that LAHSA is unable to
18 continue, the County and the LA County Development Authority
19 are ready and committed to stepping in. The County has reached
20 out to the City to discuss potential collaborative approach to
21 the HMIS lead and see if management entity, in the event the
22 Court rules that LAHSA cannot continue.

23 Ultimately the County will work decisively and
24 collaboratively to avoid imminent harm and I think Your Honor
25 has heard a compelling argument about that imminent harm, the

1 region could suffer if there is a lapse in this critical
2 funding for all of the programs and the service providers
3 serving this very, very vulnerable population for continued
4 funding from HUD is essential to the region's housing and
5 support programs. And we all do rely on that funding, Your
6 Honor, and so the County is not a party to this matter, but the
7 County does believe the status quo is essential to maintaining
8 continuity of services to our some of most vulnerable. Thank
9 you, Your Honor.

10 **THE COURT:** Counsel, I'm aware of the July 24th
11 letter.

12 **MS. HASHMALL:** I'm sorry, Your Honor?

13 **THE COURT:** I'm aware of the July 24th letter.

14 **MS. HASHMALL:** Yes.

15 **THE COURT:** To the COC Board.

16 I'm going to read from page 205. LACDA is well
17 qualified to serve as the interim collaborative applicant.
18 LACDA is well positioned and qualified to serve as the interim
19 collaborative applicant on a one time emergency basis and to
20 immediately assume the responsibilities necessary to preserve
21 continuity of the COC program, administrative and coordinated
22 functions, including those associated with the fiscal year 2026
23 COC program funding cycle.

24 LACD has the organizational capacity, administrative
25 infrastructure, grant management experience, regional reach and

1 familiarity with federal funding requirements necessary to
2 immediately step into the role of interim collaborative
3 applicant.

4 I don't know what this Court's ruling is going to be.
5 I'm going to carefully listen today. Do you stand by that
6 statement?

7 **MS. HASHMALL:** Yes, Your Honor.

8 **THE COURT:** And that would then include -- well,
9 strike that.

10 One of the historical issues that's faced the City
11 and County over decades has been the lack of cooperation that
12 goes back to the 1980s. We can pull editorials. And the
13 disagreement between the City and the County over everything
14 from acuity to what responsibilities, what funding streams
15 would entail from everything from architecture to services.

16 The City has joined, but has in a sense simply stated
17 that they're willing to cooperate and be involved. If you were
18 the collaborative applicant in the future or on an interim
19 basis, how would you function with the City? And step over,
20 you can talk to the City, they're right there, if you'd like
21 to. But what I don't want to see is a decision by the Court
22 that would cause any harm. There's an interim basis here, an
23 interim period.

24 But I'm also deeply concerned about the historical
25 disagreements between the City and the County and I don't want

1 those repeated.

2 **MS. HASHMALL:** Your Honor, there's no doubt that the
3 City and County at times have had different priorities with
4 regards to funding, programs, beliefs about the efficacy of
5 interim housing versus permanent supportive services and
6 housing associated with that. But I think -- I don't want to
7 speak for the City, I know the County is very much attuned to
8 the urgency tied to the deadline, just a few days away.

9 And so, you know, there obviously are always
10 opportunities for greater collaboration and I know my county
11 stakeholders are committed to that. But we're also committed
12 to making sure that this essential regional system of support
13 does not collapse because that deadline comes and goes and the
14 collaborative applicant is not ready and capable of meeting
15 that deadline.

16 **THE COURT:** You have \$241 million right now that's in
17 a sense before us. A preliminary injunction is what I'm going
18 to call a temporary measure. When would you be prepared to go
19 to trial?

20 **MS. HASHMALL:** I'm not a party, Your Honor.

21 **THE COURT:** All right. Well, you might be drawn into
22 it.

23 **MS. HASHMALL:** Yeah, I'm seeing --

24 **THE COURT:** I expect if it goes to trial you'll --

25 **MS. HASHMALL:** I'm seeing that. You know, I defer to

1 the parties on how the process of this litigation should
2 proceed. I'm just here to speak on behalf of the County with
3 regards to hoping that we can maintain continuity.

4 **THE COURT:** Why I'm asking that, because when you
5 represent that you're an interim capacity, you know, to serve
6 in this role, the question would be first of all how quickly
7 and second, how long you are willing to sustain that.

8 Now, you don't have to answer that. I just want you
9 to take that back to the Board, your council, you represent
10 them. But you're standing by this statement to the Court; is
11 that correct?

12 **MS. HASHMALL:** Yes, Your Honor. And I certainly will
13 convey your comments to my client.

14 **THE COURT:** Well may be too late. Because I'm going
15 to be writing as soon as we finish this. I'm going to come
16 back to you for just a moment after I hear from the City.

17 **MS. HASHMALL:** Okay.

18 **THE COURT:** Thank you. And thank you for your
19 courtesy, I appreciate it.

20 **MS. HASHMALL:** Thank you, Your Honor.

21 **THE COURT:** On behalf of the City?

22 **MR. SOMMER:** Good morning, Your Honor, Randall
23 Sommer, Deputy City Attorney on behalf of the City of Los
24 Angeles. The City does not have additional argument to add to
25 what's already been before the Court but I'm happy to answer if

1 you have additional questions.

2 **THE COURT:** Give me one moment to look at this letter
3 one more time. And this is the letter that I'm referring to we
4 docketed it as Docket 46 for the record.

5 **(Pause)**

6 **THE COURT:** You also have substantial resources,
7 HACLA is one of those, and by you I understand it's a separate
8 entity but in a sense it's not. If there was a transition from
9 LAHSA to another collaborative entity, what efforts would the
10 City make to cooperate with the County or vice versa in making
11 that transition so that we don't have 11,000 people discarded
12 on the streets or that we have a -- or deaths that occur that
13 we could hopefully have stopped? Because what I'm referring
14 back to is regardless of what's being said in my court today,
15 there has been a history of non-cooperation and bickering
16 between the City and the County which has been extraordinary
17 harmful, that's why LAHSA was created. How are you going to
18 make that transition so that we don't literally discard 11,000
19 souls on the street, which is detrimental to our public,
20 devastating to them and will cause death? Other than promising
21 me that you're going to do that again and again?

22 **MR. SOMMER:** Yes, Your Honor. I -- let me just say
23 at first to note that the letter, as it states, is advising the
24 COC that should interim governments changes become necessary
25 the City is prepared to partner, right.

1 **THE COURT:** I've given you a hypothetical.

2 **MR. SOMMER:** So --

3 **THE COURT:** If it did --

4 **MR. SOMMER:** If it did as --

5 **THE COURT:** -- and LAHSA was no longer the
6 cooperative applicant, how that transition would take place.

7 **MR. SOMMER:** The letter states, the City is
8 committed --

9 **THE COURT:** I read the letter.

10 **MR. SOMMER:** Right. So I don't have anything to add
11 other than what's in the letter, Your Honor.

12 **THE COURT:** It's not disappointing, but I know as
13 counsel, all of you are able representations, I really think
14 that these decisions are at the executive level. I don't think
15 attorneys can make these decisions.

16 So I don't think you can really respond and that's
17 not your fault. Okay?

18 **MR. SOMMER:** Thank you, Your Honor.

19 **THE COURT:** Yeah. All right. Now, any other parties
20 wish to speak? We're going to have rebuttal in just a moment.
21 LA Alliance?

22 **MS. MITCHELL:** Thank you, Your Honor, Elizabeth
23 Mitchell on behalf of LA Alliance for Human Rights. And thank
24 you for allowing the Alliance to be heard today. We are not a
25 party to this case, but we are an interested party certainly

1 for a number of reasons, not the least of which is to ensure
2 that the settlement that was reached between LA Alliance and
3 the City and LA Alliance and the County are maintained and that
4 any interference with funding does not impact that settlement.

5 As I understand it, my conversations with the City
6 thus far it has not and will not and I expect that to continue
7 because the agreements that the Alliance has with the City and
8 the County are not with LAHSA, they are with the City and the
9 County, so I think --

10 **THE COURT:** Repeat that for me, I want to hear that
11 one more time.

12 **MS. MITCHELL:** Yes, Your Honor. The agreements that
13 are involved in the LA Alliance case are not with LAHSA, and
14 frankly they're also not with HUD. They're with the City and
15 they're with the County and we expect compliance with the City
16 and County settlement agreements regardless of the outcome of
17 today.

18 I do think it is also important to ensure that the
19 record before this Court in this case accurately reflects the
20 extensive history that this Court has already developed on
21 these issues over the last six years. Because we filed the LA
22 Alliance case in March of 2020. And this Court has spent more
23 than five years developing what is likely the most
24 comprehensive judicial record anywhere concerning LAHSA's
25 governance, financial controls, transparency and institutional

1 accountability.

2 It is important that that history of the record there
3 also be part of the record here, particularly because I suspect
4 whatever happens today, whatever the decision the Court makes
5 will be appealed.

6 And I think it's important that the record be fulsome
7 before the Court, so LA Alliance respectfully requests that the
8 Court take judicial notice of the docket and history of
9 proceedings in that case, LA Alliance versus the City of Los
10 Angeles, Case No. 20-cv-02291, including the Court's orders,
11 hearing transcripts, the Alvarez & Marsal independent
12 assessment, the Special Master's reports, the historical audits
13 and findings that have been presented throughout those
14 proceedings.

15 I think this is important, Your Honor, because that
16 record reflects deficiencies in financial oversight, contract
17 management documentation, performance monitoring, data
18 reliability and institutional accountability on LAHSA's part.

19 The independent reviewers from Alvarez & Marsal found
20 fragmented financial systems, inadequate documentation, and
21 inability to reliably trace significant expenditures,
22 insufficient monitoring of service provider invoices, and an
23 inability to verify substantial portions of the services and
24 bed reporting that formed the basis of public expenditures.

25 In short, what Alvarez & Marsal found was a complete

1 lack of financial controls, which has created conditions where
2 fraud, waste and abuse of taxpayer dollars can proliferate and
3 as we have seen from recent prosecutions which are pending,
4 seems like they did proliferate.

5 The Special Master's reports reached similar
6 conclusions regarding the need for structural reform,
7 governance changes and improved accountability on behalf of
8 LAHSA. Those findings were not isolated and were consistent
9 with historical audits going back 20 years, and reviews
10 spanning multiple administrations, multiple governing bodies,
11 and multiple independent reviewers.

12 You Honor, this, what we're talking about today, is
13 not a dispute about a single audit, even a single
14 administration, or a single accounting error, it is a 20-year
15 pattern of recurring findings by independent reviewers
16 identifying substantially the same institutional deficiencies,
17 despite repeated promises of reform. And that pattern has
18 persisted across administrations, both local and national.

19 Now, I have heard today, and I have read in the
20 papers and other places that things have changed in LAHSA and
21 we sincerely hope that is true. But that does not change 20
22 years of dysfunction, Your Honor.

23 And so what I've also heard and seen, both in the
24 papers and today, is that there are alternatives to LAHSA as
25 the collaborative applicant. I'm hearing the County saying

1 that they are ready to step up, I'm hearing the City saying
2 that they are ready to help, and I'm hearing that HUD has
3 offered direct funding to service providers, which I recognize
4 is a change to housing that's traditionally been done with the
5 COC.

6 But I would submit, Your Honor, that there are
7 exigent circumstances here that should be considered. Because
8 as we have noted in this court day after day and year after
9 year, when we started this case there were three people dying a
10 day unhoused on the streets of Los Angeles.

11 Today we are capped out somewhere around seven or
12 eight people dying every day unhoused here in the City of Los
13 Angeles. And so the question has to be asked, is the
14 institution working? And I would submit, Your Honor, it is
15 not. And that is not a personal judgment on anybody here, the
16 new interim CEO, I have tremendous amount of respect for, but I
17 do think there's an element of too little too late of what
18 we're seeing and I would echo the question that Your Honor
19 asked, which is what took you so long, HUD. Because we have
20 been desperate here in the City for change and for reform for
21 years and we have not seen it coming.

22 Now, I recognize that suspension is a drastic action
23 and the legality of that I am not here to weigh in on. That is
24 up to the Court's decision and that it something the parties
25 have discussed. But I do think that it is important to point

1 out and identify the extreme institutional failures that we
2 have seen over and over again. And I think when you have
3 extreme failures, I think extreme action is necessary.

4 I do think, Your Honor, because this is an equitable
5 proceeding I would also observe that there's a distinction
6 between harm to an institution and harm to the public. There
7 is no question, at least in my mind, that losing funding or
8 administrative responsibility is harmful to LAHSA as an
9 institution. I think that's probably a fact.

10 But LAHSA was created to serve people experiencing
11 homelessness and to help the City and County manage the
12 homelessness response system. It was not created to preserve
13 itself.

14 Is the public and are people experiencing
15 homelessness, in particular, served by continuing to support a
16 demonstrably failed institution? And our answer would be no.

17 How many more people would have been served with a
18 functional COC? I would submit a lot. If the federal
19 government concludes that a different administrative structure
20 is necessary to improve accountability while maintaining
21 services through our lawful mechanisms, the broader question is
22 whether preventing HUD from continuing that process would
23 ultimately cause greater harm to the public, to taxpayers, and
24 to most importantly the people experiencing homelessness and we
25 submit that it would.

1 That's all we have, Your Honor. I'm happy to answer
2 questions if the Court has any.

3 **THE COURT:** We'll have another round just in a
4 moment.

5 **MS. MITCHELL:** Thank you.

6 **THE COURT:** Are there any other persons before HUD,
7 the parties than HUD?

8 And make sure you pull the microphone closer, I
9 certainly know who you are, but repeat your name for the record
10 because we're on CourtSmart.

11 **MR. HA:** Thank you, Your Honor, may it please the
12 court, Joshua Ha for the Government.

13 Through the McKinney-Vento Act and other
14 appropriations, Congress sought to deliver funds to combat the
15 homelessness crisis. HUD is committed to ensuring those funds
16 make it to the people who need it most. That includes making
17 sure that the middleman, here LAHSA, is a responsible partner
18 in that endeavor.

19 At bottom, this case is about whether HUD is allowed
20 to temporarily pause entering into new agreements with LAHSA
21 while LAHSA is under investigation.

22 **THE COURT:** Remember my statement, when you speak
23 about LAHSA, you're speaking about the City and the County. In
24 other words, the segmented idea that LAHSA separates itself,
25 no, the City is LAHSA, the County is LAHSA and LAHSA are the

1 City and the County and that's the public.

2 So while we focus on LAHSA, is the City and the
3 County they're also real parties in interest here.

4 **MR. HA:** Yes, Your Honor. So as I was saying, the
5 question here is whether HUD can temporarily pause entering
6 into new agreements with LAHSA while LAHSA is under
7 investigation. It plainly can do so, especially on the heels
8 of LA County itself taking the significantly more aggressive
9 approach of withdrawing funds.

10 This Court --

11 **THE COURT:** Would you repeat that?

12 **MR. HA:** Oh, I said, we -- it plainly -- HUD can
13 plainly suspend LAHSA especially given the fact that the County
14 itself decided to withdraw funds quite recently.

15 This Court should accordingly deny the motion. So
16 first, LAHSA cannot demonstrate any likelihood of success on
17 the merits. Suspension is an agency action and under the
18 arbitrary and capricious standard, agency action must be only
19 reasonable and reasonably explained. HUD's temporary
20 suspension was both.

21 Before I get into the merits any further, though, I
22 do want to address something. LAHSA and the LA COC have said
23 that HUD's actions were pretextual and we would like to push
24 back pretty strongly both legally and factually.

25 So legally, the controlling precedent is quite clear

1 that Courts are not supposed to look behind the government
2 actions to try to figure out if maybe there was some other
3 purpose behind them. What matters is what the government
4 action does, what HUD actually did.

5 But factually, I think the modified NOFO indicates
6 that HUD isn't trying to uproot the COC system. Under the
7 modified NOFO, 60 percent of funds is going to renewal
8 projects, that is, we are trying to approximate what COC
9 normally would do in these circumstances.

10 The other 40 percent of funds goes to new projects,
11 but they are treated just like how new projects are treated in
12 any other COC. Furthermore, HUD has no intent to run this
13 competition forever. It is just -- what HUD is doing here is
14 consistent with statutes and regulations and on the basis that
15 HUD does not think LAHSA should be the middleman at this time.

16 **THE COURT:** How do you make the transition though
17 from what seems to be Congress' structure and certainly the
18 statute is being argued as well as there are processes and
19 procedures that encompass local control, because local people
20 are best able to know the community nationwide?

21 How do you support these services and guarantee this
22 transitional period, in other words, legally, pragmatically,
23 how do you step into the role of LAHSA or another collaborative
24 entity or applicant that's local? You're a national
25 organization, you're not local.

1 **MR. HA:** Right. So I acknowledge that this is going
2 to be a new process, but I do want out that the statute does
3 say that if a collaborative applicant for a geographical area
4 does not meet the requirements, that the Secretary may take
5 remedial action and that such measures may include permitting
6 eligible entities to apply directly for grants.

7 And, you know, as I mentioned before, the way HUD is
8 trying to implement this is to try to approximate what COCs
9 usually do in these circumstances. So in the usual COC
10 competition, 60 percent of funds will go to -- you know, up to
11 the local COC to decide. And just as a matter of practice,
12 usually the local COCs will use those to go to projects that
13 they funded in the past year.

14 So likewise here, HUD for that 60 percent of funds in
15 the Tier 1 projects, HUD designed its directed HUD process to
16 make sure that those funds go to renewal projects. And in this
17 area, that usually means going to housing services.

18 But to go back to -- so I did want to make sure that
19 to put on the record that we do push back pretty strongly
20 against the idea that there is some pretextual motive other
21 than the usual administrative determination that an
22 organization for which there is probable cause or reasonable
23 suspicion, that they are not complying with federal program
24 requirements should be suspended.

25 I also want to push back on the characterization of

1 the standard which applies here. Adequate evidence is a pretty
2 low bar. I don't want to -- I hesitate to lean too heavily
3 into that, because I do not want to suggest that we need a low
4 bar to succeed here, but adequate evidence has been likened to
5 probable cause. It's not supposed to be a final determination
6 and that's because suspension itself is not supposed to be a
7 final determination.

8 So I don't think LAHSA is correct to try to say that
9 oh, well if Your Honor wouldn't consider the evidence we put
10 forth to satisfy a criminal conviction, that means that the
11 suspension was improper. That's just not the standard.

12 And on top of that, then you have to layer on under
13 the APA that substantial evidence review applies. And that
14 just puts another -- that just makes this case even easier,
15 just on the standard alone.

16 That said, there's just more than enough evidence
17 before HUD to decide to temporarily suspend LAHSA. The Court
18 is aware of much of it, but just to name a few examples.

19 The 2007 HUD OIG audit reported that LAHSA did not
20 perform on site physical monitoring, did not properly perform
21 it's 100 percent source documentation desk review for at least
22 two of its project sponsors, failed to ensure that HUD grants
23 were spent in accordance with those requirements, or that grant
24 activities were fully maximized. That is on Docket 24-27,
25 pages 63 to 64.

1 The 2019 City Controller report indicated that LAHSA
2 used unclear metrics. The 2022 HUD OIG report found that LAHSA
3 failed to use millions of dollars of COC funds, which then
4 expired and did not properly document its HMIS system support.

5 A 2024 County audit showed that LAHSA inappropriately
6 used funding from other sources to pay sub-recipients prior to
7 receiving reimbursement from the actual funder.

8 **THE COURT:** Just a little slower.

9 **MR. HA:** I'm sorry. And that LAHSA had unreliable
10 data that hindered its ability to monitor contract performance.

11 As Your Honor is well aware, the independent
12 assessment noted LAHSA's deficient performance monitoring and
13 observed that this affected service quality and effectiveness.

14 The 2025 single audit which HUD was made aware of in
15 May of 2026 found that LAHSA did not have effective controls in
16 place to provide reasonable assurance that financial statements
17 were properly prepared. And that LAHSA's internal controls
18 were not adequately designed to ensure timely identification
19 and correction of accounting measures.

20 And also in May 2026, the County review criticized
21 LAHSA's recordkeeping, which could quote, impair reporting
22 accuracy and accountability for county funds.

23 Now, we heard several arguments that the information
24 is somehow stale, but as Your Honor points out, the question is
25 not like -- is not whether it's stale, it's why did it take so

1 long.

2 The -- as LAHSA themselves say, the question when it
3 comes to present responsibility is whether the organization has
4 quote, taken steps to ensure that the wrongful acts will not
5 recur. The fact that we are still talking about a lot of the
6 same issues as we were talking about in 2007 indicates that the
7 steps were not taken to ensure that wrongful acts will not
8 recur.

9 As for why now, we -- HUD was made aware of -- two of
10 the reports I mentioned we were only made aware of in May 2026,
11 the 2025 single audit and the 2026 County review.

12 **THE COURT:** Just a moment.

13 **MR. HA:** Sorry.

14 **THE COURT:** 2025 single audit. Why don't you
15 identify further.

16 **MR. HA:** Sure. That -- you can find that by the way
17 on Docket 24-26. It was appended to the June 11th letter.

18 **THE COURT:** And what, from my memory, what is that
19 audit?

20 **MR. HA:** So that was the single audit which was
21 released to us in May 2026.

22 **THE COURT:** And what is that audit?

23 **MR. HA:** I'm sorry?

24 **THE COURT:** What is that audit?

25 **MR. HA:** It was an audit of LAHSA's internal controls

1 basically.

2 **THE COURT:** The A&M audit?

3 **MR. HA:** Sorry?

4 **THE COURT:** Was that the A&M audit? I don't have a
5 photographic memory, what was that audit?

6 **MR. HA:** I'm sorry.

7 **THE COURT:** Step over to the table and they can help
8 you, okay?

9 **MR. HA:** Okay.

10 **THE COURT:** Is that the A&M audit? Which audit was
11 it? You've just given me a docket number and I don't want to
12 slow down anybody.

13 **MS. AXEL:** It is not the A&M assessment, Your Honor.

14 **THE COURT:** I can't hear you.

15 **MS. AXEL:** It's not the A&M assessment, Your Honor.

16 LAHSA's single --

17 **THE COURT:** Okay. We're going to find what that
18 audit is, we've just allowed an audit and that docket number
19 and I want to know the audit you're referring to.

20 **MR. HA:** It's the federally required audit of their
21 financial statements that all grant recipients have to submit
22 annually.

23 **THE COURT:** All right. Now, you're aware of my
24 rulings in June of 2025, correct?

25 **MR. HA:** Yes.

1 **THE COURT:** You're aware of my attorney's fees award
2 in 2026; is that correct?

3 **MR. HA:** Yes.

4 **THE COURT:** You've seen the extensive history of HUD
5 finding extraordinary deficiencies over decades of LAHSA,
6 correct?

7 **MR. HA:** Yes.

8 **THE COURT:** Why did you approve LAHSA as the
9 collaborative applicant then in April of 2026? Now, you can
10 step over and talk to your colleagues before you answer that.
11 I'd be very careful with that answer.

12 **(Pause)**

13 **THE COURT:** And also you can toss in A&M's audit and
14 the County's audit, et cetera.

15 **MR. HA:** So I'd like to introduce Bill Doolittle.

16 **THE COURT:** Sure, absolutely.

17 **MR. HA:** He is a managing counsel in the Office of
18 the General Counsel at HUD.

19 **THE COURT:** Yeah, you're more than welcome, thank
20 you.

21 **MR. HA:** Thank you.

22 **MR. DOOLITTLE:** Thank you, Your Honor. Just to
23 answer the specific question, during this time period HUD has
24 been using all of the tools that LAHSA seems to want us to keep
25 using. Our OIG has done audits, we have done document requests

1 to them, we have tried other enforcement tools and surely,
2 although we're not a party to the Court's other case, we're
3 paying attention to it.

4 So we have used those tools and ultimately when we
5 got these -- the audits that counsel referred to from May of
6 2026, it just became clear, you know, the time for half
7 measures has passed. But -- so we have been taking other
8 action up to that point. Thank you, Your Honor.

9 **THE COURT:** Thank you, sir, I appreciate it. So,
10 counsel, please continue.

11 **MR. HA:** Thank you, Your Honor. And I would also say
12 that that also demonstrates that it's just not true that we did
13 not consider alternatives, when we were deciding whether to
14 take the suspension action.

15 And, of course, it was not lost on HUD that LA County
16 viewed much of the same evidence and apparently decided that
17 LAHSA's issues were serious enough to withdraw the funding this
18 past year.

19 Now, LAHSA suggests in its reply brief that a lot of
20 the issues are just about documentation, or it's just about
21 monitoring, but those are -- that's not really a defense and it
22 does not really give us much comfort. I mean, those are not
23 victimless malfeasances.

24 I would point Your Honor to any number of
25 indictments, even the Alexander Soofer indictment just recently

1 where someone turned out to have gotten \$5 million of funding
2 from LAHSA and used it for personal purposes over the course of
3 seven years. I would think that documentation or monitoring or
4 oversight would have helped there.

5 Finally, as I was referring to earlier, HUD's
6 decision was also reasonably explained. I would refer this
7 Court to the June 11th letter which sets out in detail why HUD
8 decided to suspend LAHSA at this time. The APA is not a
9 straitjacket and even less than --

10 **THE COURT:** The June 11th letter?

11 **MR. HA:** Yes, the June 11th letter.

12 **THE COURT:** It was a warning letter. Your June 18th
13 is actually the suspension letter, isn't it?

14 **MR. HA:** No, Your Honor. So the June 11th letter is
15 the notice of suspension. The June 18th letter just sets out
16 that the further remedial action of the direct to HUD process.

17 **THE COURT:** Okay.

18 **MR. HA:** So the APA is not a straitjacket, even less
19 than clear, agency decisions must be upheld if their reasoning
20 can be reasonably discerned. But here, HUD's reasoning is
21 pellucid. We considered reliance interests. We expressly
22 noted LAHSA's financial footprint and the homelessness crisis
23 in the City.

24 We also considered and even tried alternatives, as my
25 colleague just noted. We just decided that given all these

1 considerations, the best course is to investigate LAHSA and
2 pause its federal participation in the meantime.

3 LAHSA cannot identify any statutory violation because
4 everything we did here was explicitly authorized by statute.
5 LAHSA is, of course, correct that regulations and statutes
6 contemplate in a perfect world, that a collaborative applicant
7 will compile an application to send to HUD. But those same
8 regulations and statutes also recognize that sometimes that
9 would not be the case.

10 Section 11, 360(a), Subsection C explicitly says that
11 when a COC is not functioning for a geographical area, HUD may
12 allow for direct applications. I think it's very hard for
13 LAHSA to say that chaos will ensue if they are suspended on the
14 one hand and say that there is still a functioning COC in the
15 region that on the other hand, to say that we cannot take this
16 remedial action.

17 And on top of that, I don't think it can really be
18 disputed that a COC without a collaborative applicant cannot
19 run a COC competition.

20 And so HUD merely followed what the statute said it
21 could do when it decided to implement a direct to HUD
22 application process.

23 I would also like to turn to the constitutional
24 arguments that I think LAHSA and the LA COC raised.

25 So as to the constitutional question, the question

1 here isn't whether HUD's intent violated Congress' intent. The
2 question is whether what HUD actually did violates what
3 Congress told it to do. For all the reasons I just said, we
4 expressly followed Section 11, 360(a), Subsection C to the
5 letter. We -- our letter literally quotes that statute.

6 And LAHSA's argument merely confirms that their
7 constitutional claims don't really add anything. Now, LAHSA
8 says that this case is different perhaps because Congress
9 legislated under its appropriations authority, but Congress is
10 always legislating under some Article 1 authority, that doesn't
11 make every statutory violation a separation of powers problem.
12 Felton v Spectre (phonetic) from the Supreme Court makes that
13 point.

14 So I don't think that's enough to say there's a
15 constitutional claim here. But it also means that it doesn't
16 add anything to this case, like either -- sorry, either HUD
17 followed the statute or it did not. For the reasons we said,
18 we did, but if we did not, that's not a constitutional problem,
19 that's a statutory problem and that's what this case is about.

20 I also heard -- I think I also heard LA COC's try to
21 insert a procedural due process claim here. Well, to that,
22 I'll talk about this more later, but procedural due process
23 those claims are channeled through the Matthews v Eldridge
24 framework. And one of the questions you asked when determining
25 what processes due is you consider the government's interest in

1 having streamlined procedures. And there's a very big
2 government interest in making sure that responsible people are
3 contracting with the government.

4 I think the fact that virtually every agency has the
5 same suspension authorities is testament to the idea that the
6 public interest says that contact first and check later is not
7 good policy.

8 As to the Tenth Amendment argument, California
9 obviously has a police power to combat the homelessness crisis.
10 But it is a very different thing to say that the Tenth
11 Amendment is violated when the federal government does not use
12 federal taxpayer dollars to provide it to LAHSA. I just don't
13 think you can draw that equivalence at all.

14 I'll now turn to the equities. As to the equities,
15 as I mentioned before, the public interest is not served by a
16 contract first and check later policy, especially here where
17 funds are limited and we need to make sure that these funds are
18 getting to the right hands.

19 As discussed earlier, there's record evidence that
20 from audits and reports, that sometimes funds are allowed to
21 expire, that they don't end up reaching the people who need it
22 the most.

23 And as the LA Alliance pointed out, the public
24 interest does not necessarily cut in LAHSA's favor. Now LAHSA
25 says that we are being very speculative, saying oh, that well

1 things may not go so badly, but we're not the ones moving for a
2 preliminary injunction. They're the ones who have to show that
3 the balance of the equities and that irreparable harm go in
4 their direction and they're the ones who are providing
5 speculation saying that the sky will fall if we just follow
6 what Congress said we should do.

7 **THE COURT:** Anyone you want to consult at any time,
8 counsel, please, there's no issue.

9 **MR. HA:** Okay.

10 **(Pause)**

11 **MR. ESSAYLI:** I just want to add a few words, Your
12 Honor. I'm Bill Essayli on behalf of the United States.

13 I just want to zoom out and explain why we're here
14 today, Your Honor. We are here because we simply cannot
15 continue to fund failure and that's what's been happening with
16 the millions and millions of dollars of federal tax dollars
17 that have been entrusted to LAHSA, which I agree with Your
18 Honor, is just a fiction of the County and the City.

19 Millions and billions of dollars have been entrusted
20 to public officials to take care of the people who are out on
21 the streets, people who are, it was referenced, seven people
22 die every night on the streets of Los Angeles. That's why
23 we're here today, Your Honor.

24 What we're doing has not worked, we're here to change
25 it. Are we late? Yes. But are we here now? We're here now,

1 Your Honor.

2 I'm extremely disappointed that there are no elected
3 officials here. You are right. This is not an attorney
4 problem. This is a leadership problem. I'm the presidential
5 appointee. I'm the highest federal appointed person in this
6 district, Your Honor. I'm here. This is important to me.
7 It's important to HUD, it's important to the United States and
8 we want to get this right.

9 I am extremely disappointed not one County
10 supervisor, not one City Council member bothered to show up to
11 this hearing today and I think that says a lot about how
12 seriously they're taking the issues that this Court has
13 highlighted and identified. And whether it really calls into
14 question, Your Honor, whether we can entrust them with another
15 single dollar of taxpayers, to get the help to the people who
16 need it.

17 I've walked skid row many times, I've been out on the
18 streets. The money is not getting to the people that need it.
19 I did a ride along with LAPD just two weeks ago in McArthur
20 Park, the officers told me they encountered a homeless couple
21 with young children and they wanted help, they wanted to go to
22 a rehab bed. The County shut them down. They said, we don't
23 accept people from LAPD.

24 And they called -- LAPD called LAHSA said, we don't
25 do that, we can't help you. The officers had no idea what to

1 do. I think they finally got ahold of a private program that
2 was able to take them in. And I'm sure there's many, many more
3 stories like that. I'm out on the ground, Your Honor, help is
4 not getting to the people that need it and the only thing I've
5 heard today is arguments about, you know, letting their
6 bureaucracy function as is. We cannot do that, Your Honor, it
7 is unconscionable.

8 This is really a question of whether anyone at the
9 County and the City has the proper control, competence, and
10 culture to oversee these funds and these programs, we're
11 talking about a lot of money. Do we have a perfect answer?
12 No, Your Honor. It's the best we can do right now.

13 We are more than willing to work with the Court to
14 fashion something if the Court doesn't feel HUD can do it as
15 is, we want to find a way to do it. But I'm not sure the
16 County or the City is a responsible player.

17 In 2020 we had 66,000 unhoused people on the streets
18 of LA. Today we have 73,000, despite the billions. That is
19 shameful.

20 So I can get into -- I mean, there's so much evidence
21 in how the money's been mismanaged. I've now brought several
22 indictments, Your Honor, in this matter. In October I indicted
23 Mr. Taylor who was -- sold a piece of property to LA City in
24 Cheviot Hills. Your Honor, he purchased that property for 11
25 million and in the next month, sold it to the City for \$27.3

1 million.

2 Had the City conducted a basic appraisal they would
3 not have wasted about \$16 million of taxpayer money which could
4 be used for other places. That's just one example.

5 My colleague eluded to another indictment I brought
6 January of this year, Mr. Alexander Soofer. Mr. Soofer was
7 entrusted with \$23 million. He was in charge of taking care of
8 600 unhoused people. He was supposed to use that money to pay
9 to get them housed in motels and he was supposed to provide
10 them three hot meals a day.

11 He did not pay the hotel bills, LAHSA went and paid
12 it again, they double paid for the same people. And the three
13 hot meals a day, he had Ramen soup and a microwave is what he
14 spent the money on. The rest he bought a mansion in Westwood.
15 He bought a home in Greece. He went on vacation at the Four
16 Seasons in Hawaii and he went on a shopping spree in Hermes
17 (phonetic). That's where the money went, Your Honor.

18 And without saying too much, there will be more
19 indictments coming in this space very soon here. So I just
20 want to stress, this is a big deal, Your Honor. What we do
21 today matters. I think that's why there's so many people here
22 and we want to get it right and we want to work with the Court
23 on that. And with that, I'll turn it back over. Thank you,
24 Your Honor.

25 **(Applause)**

1 **THE COURT:** Did you want to continue, counsel, or?

2 **MR. ESSAYLI:** We'll submit.

3 **THE COURT:** Submit?

4 **MR. ESSAYLI:** Yeah.

5 **THE COURT:** All right. We're going to go to lunch
6 and let me just toss out to you, if there's any opportunity
7 here with this crisis, first of all, when we come back with the
8 Board, why don't you explain the amendment that took place last
9 week. I think that the parties are aware of it, but I'm not
10 certain because there the Board has implemented some amendments
11 which I think will be very helpful going forward. But I don't
12 know. But I want you to explain that amendment so we're all
13 aware of what occurred because there's a lot of movement over
14 the last week, let alone a few days.

15 Second, whether LAHSA continues on with -- your
16 reference and I know that they're commendable and I say that to
17 you, I know you're really making an effort as the director, I
18 want to pay you that compliment, you can see the frustration on
19 the other side that it's got to the point that they're going to
20 take action.

21 But whether you continue on or there's a transition
22 to another cooperative applicant, really sort out in your minds
23 how that would take place. In other words, as you reach your
24 frustration level to move this forward, by the same token,
25 there's a responsibility to make certain we don't harm people

1 in this transitional period or kill people, and this is the
2 equitable time.

3 And so if we were to make that transition, what would
4 that look like. How would -- in fact, if I bore down on you
5 without embarrassing you, you specifically take the place of
6 LAHSA in this transitional time and guarantee these services as
7 we decide whether you continue on or you don't continue on,
8 whether there's another applicant. I just toss that out to
9 you, because it's great responsibility.

10 The second thing is, let's just put it out on the
11 table. There's a struggle that's gone on for a long time
12 between the City and the County and the County seems to be
13 moving away from LAHSA. I have no comment whether that's good
14 or bad, that's a decision, but the County seems to be striking
15 out on its own in an attempt to bring that responsibility
16 within the County and you've seen that with the withholding of
17 the \$300 million, but we've got \$241 million on the table right
18 now and whatever we rule or wherever this takes us, there's
19 going to be more money in the future.

20 But by the same token the City's been in an
21 interesting position and, Ms. Hamburger, you've joined -- not
22 you, but the City's joined in the letter and pledging support.
23 I read recently, I don't know if it's true or not, but some of
24 those decisions have been delayed by the City not until 2027.

25 And so if that's the case, in a sense, if you're

1 withdrawing money in this matter and the County's going one way
2 and the City's going another way or not making a decision, then
3 it's interesting as this money is intertwined how one party who
4 may be striking out and trying to form their own entity, and
5 another party is still deciding what to do how that plays out
6 in terms of the folks on the street and the citizens here.

7 So whether it's LAHSA or another interim cooperative
8 applicant, I just ask you to be careful in making this request,
9 that you believe you can truly service in this interim period
10 of time while we're pending trial, and you're not in a position
11 of taking that responsibility and quite frankly not being able
12 to service the folks on the street because this is a temporary
13 order. That harm would be irreparable.

14 The second thing is, when are we going to set the
15 matter for trial? This isn't a scheduling conference, but
16 watch out, if we go forward, which obviously we're going
17 forward in some form, I'm going to set a very short trial date,
18 you can think February and that's going to shock you.

19 One reason is, I don't want to go through the process
20 again in 2027, which is we having another hearing; number two,
21 whatever this interim process is, putting you on alert that
22 we're going to trial in 2027 in February, puts you in a
23 position of responsibly thinking over the lunch hour if there
24 can be any cooperation.

25 So our motto over the lunch hour, cause the least

1 amount of harm, keep the most folks in housing or shelter in
2 this interim period of time, curtail the death rate as much as
3 possible, because this will become an equitable decision by the
4 Court. And irreparable harm and the public interest are the
5 most important factors probably that I'm going to consider.

6 If there's any way we can get to a cooperative level
7 on that, then I think HUD's in a terrific position without
8 being criticized for taking this on and all of the ills that
9 could befall it, and I think that for LAHSA, you would continue
10 to exist in this period of time or there might be another
11 collaborative applicant who came in, but at least we wouldn't
12 have the dramatic transition where your services were cut.

13 And what I'm worried about is that the timing of
14 another cooperative applicant coming in in this period of time
15 and replacing you, and the harm that's caused, even if you --
16 not you, but the agency has been accused of past deficiencies.

17 So if you can talk, you're not required to, but if
18 there's a way that we can get through this interim period of
19 time, because I'd love to give this to the American public. I
20 think they would be fascinated with this case and their wisdom.
21 Don't you?

22 **(Laughter)**

23 **THE COURT:** Okay. Now, why don't you go to lunch and
24 why don't we come back at 1 o'clock. Okay? Thank you very
25 much.

1 **(Recessed at 11:53 a.m.; reconvened at 1:32 p.m.)**

2 **THE COURT:** First of all, we're back on the record
3 and thank you for your patience. Quite a bit has happened just
4 over the lunch time. The Court was contacted by the Special
5 Master, Michele Martinez, Mayor Bass had phoned over,
6 apparently wanted to talk to the Court. I didn't think it was
7 appropriate in terms of -- the court is always open, but in the
8 middle of the hearing, I'm a little uncomfortable.

9 So the Special Master spoke to the Mayor. And the
10 City's prepared, I believe to make a representation. So we've
11 held that up and, sir, if you'd come forward. I think I know
12 what that representation is, but I would like a record and I
13 don't want to be the one who conveys this.

14 **MR. SOMMER:** Thank you very much, Your Honor. Again
15 it's Randall Sommer for the City.

16 There's two points, Your Honor. The first is that I
17 think we want to make clear on the record that the City agrees
18 with LAHSA and the COC and the County that LAHSA needs to be
19 able to continue to operate in the short term at least, in
20 order to complete this process for the NOFO. There's just not
21 sufficient time to put some alternative structure in place and
22 irreparable harm will occur and will happen to the very people
23 that we are all trying to help in this process, okay.

24 The second thing that I need to say is that if
25 ultimately LAHSA is not going to be in the long term, assuming

1 the -- continue to assume the functions that it has, the City
2 needs to state that it wants to become or be one of the
3 collaborative applicants and be the collaborative applicant for
4 funding of programs that are in the City.

5 The City needs to be able to control and manage the
6 portion of the funding of services for homelessness within the
7 City. That's what I wanted to say, thank you. Anything else?

8 **THE COURT:** Would you thank the Mayor for her
9 participation.

10 **MR. SOMMER:** I will, Your Honor.

11 **THE COURT:** Always willing to talk to, especially the
12 executive branches, Board of Supervisors, the Mayor, but I
13 appreciate her talking to Michelle.

14 Would you remain for just a moment?

15 **MR. SOMMER:** Yes.

16 **THE COURT:** Okay.

17 **(Pause)**

18 **THE COURT:** There are two significant collaborative
19 applicants now potentially before the Court. The development
20 of the County's representation that they're prepared in this
21 interim period of time, and also would make an application to
22 make the collaborative applicant on a more permanent basis.
23 And now the City's representation that you would take the
24 position of being a collaborative applicant on behalf of the
25 City. And one of the things that's changed, so we all hear

1 that, are the amendments.

2 And I'd like Shayla Myers now to come up, so we have
3 a record. I'm aware of the amendments, but I want to make sure
4 all counsel are aware of the COC Board's amendments that just
5 occurred.

6 So if you'd remain for just a moment, that way the
7 Mayor's aware of what's occurring here.

8 **MS. MYERS:** Thank you, Your Honor, Shayla Myers with
9 the Legal Aid Foundation of Los Angeles on behalf of the LA
10 COC, the plaintiff intervenor.

11 Yes, Your Honor, after the COC received notification
12 from HUD that HUD was moving forward with suspending LAHSA, the
13 COC worked with all due diligence to ensure that they were in a
14 position where they could change the collaborative applicant
15 should that prove necessary.

16 And so they went through the structured process,
17 outlined in their charter to amend the charter. It had
18 previously specifically designated LAHSA as the COC or as the
19 collaborative applicant. The charter now retains LAHSA as the
20 collaborative applicant, but gives the COC the ability to
21 appoint a new collaborative applicant.

22 And, Your Honor, importantly and I think we cannot
23 escape this as we talk about this, it's not just the
24 collaborative applicant where the charter designates authority.
25 The COC is responsible for designing a collaborative applicant.

1 They are also responsible for designating a CES management lead
2 and an HMIS lead and the charter now has processes by which to
3 do that.

4 It also contemplates that -- it's in the charter and
5 that those roles can be performed by different entities. And,
6 Your Honor, I think this is really important to point out that
7 the structural changes that the COC made were part of adherence
8 to its procedures.

9 The COC is a collaborative body that is doing its
10 level best under the circumstances to perform its functions
11 with fidelity to its procedural processes. And that's what it
12 did here. And importantly, Your Honor, that is what the COC is
13 prepared to do in the event that it is required.

14 LACDA sent a letter to the COC indicating that in the
15 event it was required, they could move forward as a
16 collaborative applicant. And the COC Board has been moving
17 with fidelity to its charter to assess whether or not LACDA
18 could serve as a collaborative applicant.

19 And the City of Los Angeles has not provided that
20 representation to the COC, but it's important to note under
21 statute and regulation, the ability to appoint the
22 collaborative applicant rests with the COC. And, Your Honor,
23 that's why we thought in large part it was important for the
24 COC to be part of this case now.

25 **THE COURT:** Does that mean that -- first of all, Long

1 Beach is its own COC, Pasadena is its own COC, but the region,
2 the rest of Los Angeles has been designated as a COC.

3 **MS. MYERS:** Exactly, Your Honor.

4 **THE COURT:** But you can have more than one
5 collaborative applicant now because of the amendment. So
6 within the City, the remaining region, which was and is
7 represented by LAHSA, you could first of all have one -- more
8 than one collaborative applicant --

9 **MS. MYERS:** No, Your Honor.

10 **THE COURT:** So one collaborative applicant.

11 **MS. MYERS:** The HUD regulations and by statute, the
12 continuum of care is required to designate one collaborative
13 applicant and that's part of the structure that says that they
14 operate contiguously, right. That they speak with one voice.

15 **THE COURT:** So if there were two entities that had
16 the ability to be the collaborative applicant, one the County,
17 the other the City, do HUD rules preclude the City being a
18 collaborative applicant and the County being a collaborative
19 applicant?

20 **MS. MYERS:** Well, I think, Your Honor, it's --

21 **THE COURT:** Hold on, that's a yes or no, it's real
22 simple.

23 **MS. MYERS:** Sure.

24 **THE COURT:** Yes or no?

25 **MS. MYERS:** It can't be answered because they're not

1 offering the same thing, Your Honor.

2 **THE COURT:** Understand that.

3 **MS. MYERS:** The County is offering to be the
4 collaborative applicant for the continuum of care as it
5 currently exists. If the City were to perform the role of
6 collaborative applicant for the City of Los Angeles, it would
7 fracture the existing continuum of care and new continuums of
8 care would have to be created and structured to account for the
9 City and then everyone else.

10 **THE COURT:** I understand that that takes a longer
11 period of time --

12 **MS. MYERS:** Exactly, Your Honor.

13 **THE COURT:** -- but it doesn't take a longer period of
14 time for a collaborative applicant, so.

15 Now I want to propose, not a ruling, but isn't it
16 obvious that no matter what happens, that LAHSA would continue
17 to be the collaborative applicant for at least some period of
18 time and the City eventually will have to decide whether
19 they're going to either become their own COC or collaborative
20 applicant, I'm going to mix those, or to contract with the
21 County or number three, remain with you. And that's been
22 delayed some period of time and only recently I think within
23 the last day or so did the City apparently approve some amount
24 of money to a special master to help make that decision. Now,
25 I may be wrong about that, but.

1 The second is that why wouldn't the Court consider
2 other entities, for instance, it might be argued that the
3 Housing Authority has the ability, HACLA has the ability, why
4 wouldn't the Court give 60 days for instance or some reasonable
5 period of time for any other collaborative applicants, so that
6 we don't just have two representations today in court, and if
7 that were so, then HUD would examine those to make their
8 decision and therefore have time to think -- hold on, I'll be
9 right with you, I know there's all sorts of problems of the
10 Gordian knot, I get it, we've learned this of years and years
11 of bureaucracy and rules, so I understand that.

12 But then why wouldn't HUD then have time to consider
13 if they want to keep the present position or if there's a
14 collaborative applicant, you're subject to the local
15 congression intent, the local folks, give you time to sort that
16 out. And in the interim period of time we would not take the
17 stark God awful situation of 11,000 people hitting the street,
18 and/or a lack of care, and I know you're desperately trying to
19 implement, and save lives.

20 If that occurred, my question to you would be this,
21 I'd want to know what was happening on the national level with
22 HUD, and I want to know if Los Angeles was being punished.
23 Because on August 26th we have a due date, there's some time
24 frames after that in which, you know, funding is decided.

25 We're already late in terms of the application so I

1 don't see why there wouldn't be some flexibility on your part,
2 but if that occurred, I want to make certain with all of these
3 COC across the country that Los Angeles wasn't taking a back
4 seat and this money was divvied out and being punished.

5 Now, I want -- no, I want you to talk amongst all
6 your folks. Take some time with this. Because then I would be
7 concerned and probably -- yeah, have a conference, just make
8 sure you're -- just spend some time with each other.

9 So the question is very simple, I don't want Los
10 Angeles put at the back of the line or being punished
11 nationwide, if in fact, we gave time for and fairness and due
12 process, other people who wanted to come in, entities that are
13 a collaborative applicant, HUD would have all of these people
14 now or entities on the table. And you select from that.

15 Because if the plaintiffs are right, Congress would
16 seem to have this empowerment of local people to make these
17 decisions. And if any of you folks who are out in the audience
18 and you have these parties up here, I'm not worried about the
19 formality, you're more than welcome to come up and consult with
20 the attorneys.

21 And for LAHSA, that means that the City may choose to
22 continue on with you, they may decide, no, they want to be
23 their own collaborative applicant and they may decide they want
24 to team with the County and we'd have that continuum if you
25 would, because I think as we play this out, they're going to be

1 the continuum anyway for a period of time.

2 **MS. AXEL:** After August 26th?

3 **THE COURT:** Yeah. 60 days after I wrote my opinion,
4 or we could make it August 26th, a few days doesn't matter.

5 So back to the United States Attorney, by the way, I
6 appreciate your presence and your input, I want you to know
7 that.

8 **MR. ESSAYLI:** Yeah. Thank you, Your Honor. I think
9 the issue with the 60 days is that there's statutory deadlines
10 for applications. I think it's December. We've extended the
11 deadline so that way LA would have more time to respond to this
12 and for us to figure this out.

13 **THE COURT:** Let me stop you. Let me walk you through
14 that for just a moment.

15 **MR. ESSAYLI:** Yes.

16 **THE COURT:** Let's say I gave 60 days.

17 **MR. ESSAYLI:** Yes.

18 **THE COURT:** Hold on and we have all sorts of rules
19 and regulations that we want to obey, but let's not kill people
20 okay.

21 I gave 60 days from August 26th, help me, October? A
22 couple of months, we're up to December.

23 **MR. ESSAYLI:** He's making a call as we speak, the
24 bureaucrats at HUD are going to figure that out. But we would
25 be open to that. I think we would be open to that, Your Honor.

1 I think we --

2 **THE COURT:** Hold on, they're making a frown. I know
3 you can't represent that yet.

4 **MR. ESSAYLI:** Yes.

5 **THE COURT:** I know you're trying. But the end result
6 is also I can make the order and put you in an interesting
7 position.

8 **MR. ESSAYLI:** Yes.

9 **THE COURT:** You like cooperation?

10 **MR. ESSAYLI:** We'll get --

11 **THE COURT:** Probably hinting to you that that might
12 be an order and then we fly in the face of contempt, et cetera,
13 we don't want to do that.

14 **MR. ESSAYLI:** They're making a --

15 **THE COURT:** So who are we talking to in Washington,
16 D.C.? I'm just joking with you.

17 **(Laughter)**

18 **MR. ESSAYLI:** But, Your Honor, I just want to address
19 a couple of things that were said earlier about letting the
20 City and the County work together. I think they've tried that,
21 it's called LAHSA and it didn't work.

22 So I think -- we think it's important --

23 **THE COURT:** Maybe you choose one collaborative
24 applicant --

25 **MR. ESSAYLI:** Correct.

1 **THE COURT:** -- and you maintain your present
2 position, which gets everybody back in court. It may be that
3 you go with the County or the City, I don't know how that works
4 out, but I want to give everybody a chance --

5 **MR. ESSAYLI:** Yes.

6 **THE COURT:** -- to participate.

7 **MR. ESSAYLI:** We would welcome that, Your Honor. We
8 want to make the right decision. We don't want to be rushed,
9 but time is of the essence --

10 **THE COURT:** Yep.

11 **MR. ESSAYLI:** -- and we don't want the status quo to
12 continue.

13 **THE COURT:** When I leave tonight, unless we have some
14 kind of resolution, I start to write.

15 **MR. ESSAYLI:** Okay.

16 **THE COURT:** And my law clerks, when are we coming in,
17 Saturday, Sunday? We're writing continuously. In other words,
18 you don't have any more time.

19 **MR. ESSAYLI:** What about 45 days, Your Honor?

20 **THE COURT:** Yeah. Well, no, not from today's date.

21 **MR. ESSAYLI:** Oh, okay.

22 **THE COURT:** If I took the position that I was going
23 to give everybody a shot at being a collaborative applicant, so
24 far I know the County is stepping up, I know the City is now
25 stepping up through the Mayor, there may be HACLA as a separate

1 entity, I don't know if that works with the County, they're a
2 separate entity in a sense, so is the Housing Authority --

3 **MR. ESSAYLI:** So they would apply to --

4 **THE COURT:** You want everybody on the table.

5 **MR. ESSAYLI:** Yes. I --

6 **THE COURT:** And the COC Board then would be looking
7 at these folks, you know, everybody would have a fair shot
8 rather than just having -- remember, the City's position is
9 coming to me over the lunch hour.

10 **MR. ESSAYLI:** Yes.

11 **THE COURT:** And so if we're being fair and due
12 process is going to be followed, I'd want to make certain that
13 we don't shut off any other potential applicant but they don't
14 have a lot of time.

15 **MR. ESSAYLI:** Can I join that phone call, Your Honor?

16 **THE COURT:** Yeah, please.

17 **MR. ESSAYLI:** Okay. Thank you.

18 **THE COURT:** Go do the phone call and I'll let get off
19 the bench. No, let's wait. Let them make the phone call,
20 okay. Yeah, we may be -- we have time for the adversarial
21 system, this could work out. It could work out.

22 Now let me get off the bench for a moment so it's not
23 so formal, just visit amongst yourselves. Let the folks make
24 the phone call.

25 **(Recessed at 1:48 p.m.; reconvened at 1:54 p.m.)**

1 **THE COURT:** Okay. Then, folks. All right. We're
2 back on the record and all counsel and the parties are present.
3 Let me turn this over to the United States.

4 **MR. ESSAYLI:** Thank you, Your Honor. We've been
5 conferring with people in D.C. There's a practical issue with
6 the -- continuing the deadline, but we want to continue it
7 somewhat. The selection process is done nationwide at once, so
8 it's not that only LA's applications that can be considered
9 alone, they all have to be considered at the same time. So any
10 delay delays the entire review and selection process for the
11 entire nation. With that said, I've gotten them at least to
12 agree to 45 days as the most.

13 **THE COURT:** Okay.

14 **MR. ESSAYLI:** I do think that would be sufficient
15 time, Your Honor, and that's going to delay it nationwide, but
16 it's so we can do it right. So that way people can apply to be
17 the collective applicant.

18 We have on request, Your Honor, though is that at the
19 deadline, the COC may make a recommendation as to who that
20 applicant should be, we'd like to submit our recommendation
21 based on the applications of who we think would best serve in
22 that role and for Your Honor to decide.

23 **THE COURT:** So that you have input.

24 **MR. ESSAYLI:** I'm sorry?

25 **THE COURT:** The COC would make that initial

1 determination, the Court wouldn't.

2 **MR. ESSAYLI:** They would make the initial
3 determination, but if we don't agree, we'd like to be --

4 **THE COURT:** You'd have input to the COC.

5 **MR. ESSAYLI:** What's that?

6 **THE COURT:** You'd have input to the COC.

7 **MR. ESSAYLI:** We have input to the COC, but if we
8 don't agree, let's say they select LAHSA again, we want to
9 reserve the right to come to Your Honor and ask for one of the
10 other applicants.

11 **THE COURT:** There's no way to deter you. In other
12 words, you'd always have an open courthouse door, but I don't
13 want to represent the Court would take that at the time. Right
14 now initially under the structure it lies with COC, the Board.

15 **MS. MYERS:** Yes, Your Honor, under both statute and
16 regulation and to be clear, HUD's only rules, the COC is
17 responsible for choosing the collaborative applicant. Nothing
18 in HUD's rules allow them to --

19 **MR. ESSAYLI:** Actually they do, Your Honor.

20 **MS. MYERS:** -- choose the collaborative applicant.

21 **MR. ESSAYLI:** When the COC has failed as they've done
22 here, the statutes allow HUD to step in in the place of the
23 COC. Excuse me, Your Honor, that is in statute and I want to
24 be clear. We stand on our papers that this injunction should
25 be denied in whole, but we do hear the Court's concerns about

1 continuity of care. We want to work with the Court, but to
2 suggest that we're acting in bad faith or contrary to law is
3 inaccurate, Your Honor, and we do have a seat at the table. We
4 are the federal government and it is our money. Thank you,
5 Your Honor.

6 **(Applause)**

7 **THE COURT:** All right. Have a seat. Let's not get
8 into rapid -- have a seat.

9 Now, let's do this. Let's have another go around.
10 You've heard the comments, I've made no ruling. We've thrown a
11 lot of ideas, so let me start once again with LAHSA.

12 So this is the last round.

13 **MS. AXEL:** Okay. Your Honor, I think the very first
14 thing is, I was just asking to be heard on the limited purpose
15 of kind of the negotiation, but broader comments in rebuttal
16 too --

17 **THE COURT:** You can do both.

18 **MS. AXEL:** I can do both, okay.

19 So the first thing, Your Honor, is with respect to
20 the immediate NOFO and the collaborative application, the
21 consolidated application that's due August 26th, it's certainly
22 our position and I at least know that the City shares this
23 position, I believe the COC shares this position, the Court
24 should grant the preliminary injunction and allow LAHSA to
25 continue in that role and get this application in on time.

1 You heard what Mr. Essayli said, which came from HUD
2 directly on the call, that they actually -- this is a
3 competition, they conduct amongst the regions, they need time
4 to evaluate these applications. And so it just doesn't make
5 any sense to try to extend it and do it 45 days later. We're
6 20 days away, we've done all the work.

7 And as we've said before, nothing they've identified
8 actually colors anything that we do with respect to the
9 collaborative application. There's not one word in the letter
10 that touches on those rules and responsibilities and how LAHSA
11 has executed them. And as I said, the Court has evidence that
12 just at the most recent one, we scored very highly.

13 There's another practical consideration, Your Honor,
14 which is that LAHSA itself is not only the collaborative
15 applicant but also the grantee and has sub-grantees underneath
16 it. And we talked about, a lot of these are boots on -- these
17 are boots on the ground, other than LAHSA itself which gets
18 certain grants for certain functions, these are boots on the
19 ground service providers, in fact, almost all of the domestic
20 violence portfolio that the COC administers goes through LAHSA,
21 LAHSA applies for it.

22 Most of the chronically disabled permanent housing
23 goes through LAHSA. LAHSA applies for it. LAHSA is then the
24 renewal applicant. So the Court heard that in terms of
25 evaluating the priorities under the consolidated application

1 high weight is given to the renewal applicant, LAHSA is that.

2 So there are ways, and regulatory ways in which that
3 can be transferred. There's a project transfer that can take
4 place, that is going to require HUD approval, that is also
5 going to take some time. Even assuming the City and the County
6 could agree on something in 45 days and I'll get to that later.

7 So, Your Honor, it seems the clear path is, even if
8 the Court wants to fashion something where you only grant the
9 preliminary injunction for a 45 day period or a 60 day period
10 or something like that, incentivizing the parties then to reach
11 some agreement by that mark, we still strongly maintain we
12 should get the consolidated application in on time. And then
13 the Court can still have us back in 45 days, having only
14 extended the permanent injunction -- preliminary injunction
15 that long.

16 LAHSA, of course, would like to see it continued
17 through the trial and we are prepared for the expedited trial
18 that the Court had referenced. I will also say, Your Honor,
19 that we do reject that the City and the County are real parties
20 in interest.

21 I really think as a matter of the Rules of Civil
22 Procedure they're not. I understand the Court's view about
23 stakeholders, but the joint powers agreement has legal effect.
24 LAHSA has a formal structure, and you know, one of the
25 commissioners said to me at the break, Your Honor, it's almost

1 like forced marriage counseling, but that's what happens. This
2 is a brokered structure that works.

3 The electeds do nominate people for this Board. They
4 do then have to sit in session and talk to their electeds and
5 come to an agreement about what LAHSA should do. That
6 agreement includes filing this lawsuit and seeking to enjoin
7 this. Those commissioners who report to their electeds all
8 join in that, that is the process by which the City and the
9 County agreed.

10 And what I heard, Your Honor, was the County wants to
11 be the collaborative applicant, but so does the City, maybe
12 they want to break up the COC, that is not agreement. We had
13 no shred of an agreement and our communications with people at
14 the, you know, executive level that run these things is that
15 they are not talking, there is not an agreement, nor is there
16 anyone who really believes they can step up and take over this
17 function in the short term.

18 I will also say and I am going to, since this is
19 longer, I'm going to give Mr. Pelham a chance to talk. Let me
20 just --

21 **THE COURT:** My input is that your executives would
22 like to be more involved with less attorney involvement. Let
23 me be very blunt about this.

24 **MS. AXEL:** I'm sure that that's true, Your Honor, and
25 they should, that would be very efficient. But, I mean, there

1 have been meetings where the executives from various agencies
2 have been together at the table, they talk to Gia (phonetic) as
3 well. She is not hearing at that level that the collaborative
4 application can be taken over.

5 And again, talking to my people who work for LAHSA,
6 this transfer typically takes, even in a smaller COC a year or
7 years. So this is just not anything that anyone who actually
8 is at the executive level and runs these agencies thinks can be
9 done immediately.

10 And as I said, there are actually technical rules
11 that have to be dealt with, and that's not even getting to HMIS
12 and SGIS (phonetic).

13 **THE COURT:** Counsel, I would encourage you not to
14 pursue this --

15 **MS. AXEL:** Okay.

16 **THE COURT:** -- line of reasoning. I don't want to
17 call you on this, but --

18 **MS. AXEL:** No problem.

19 **THE COURT:** You finish your comments, but if this is
20 the level of understanding you have, I'm appalled.

21 **MS. AXEL:** Okay. Well, I'm happy to take your
22 feedback and address --

23 **THE COURT:** I'm happy to bring the members of the
24 Board of Supervisors over here to contradict you.

25 **MS. AXEL:** Well, I think, Your Honor, we were talking

1 about executive level people versus elected.

2 **THE COURT:** I am too, that's not your level, that is
3 the Board of Supervisors level.

4 **MS. AXEL:** Okay. I think we were talking about a
5 different level, because I was talking about the people that
6 actually administer the programs as opposed to the elected.

7 **THE COURT:** I've heard the Board of Supervisors or
8 the Mayor or the Council?

9 **MS. AXEL:** Yes, the elected level.

10 **THE COURT:** Spokesperson, you don't make decisions,
11 you don't make policy.

12 **MS. AXEL:** I'm not saying that I did, Your Honor. We
13 were talking about actually the practical ramifications of
14 transferring the collaborative application.

15 Okay. With respect to the Alliance record, Your
16 Honor, I think we would say with respect to that, that there
17 has been a motion by LA Alliance counsel to make that record
18 part of this one. Your Honor, we would object to that. LAHSA
19 was not a party to that and we strongly disagree with many of
20 the aspects of that record. The Court said yourself earlier
21 that really no party there was incentivized to speak up for
22 LAHSA, because it's very easy to blame LAHSA for other
23 miscommunications that happened at other levels. And so LAHSA
24 didn't have a role, didn't get to cross-examine people.

25 There are statements, in fact, and Ms. Mitchell said

1 that I have heard from LAHSA employees that are simply in their
2 view not true, information was provided to Alvarez & Marsal,
3 they didn't know how to read it. We did have a whole trial
4 about that. I'd be happy to put that information, I know the
5 Court knows a lot about it, but LAHSA didn't have a chance to
6 have its voice heard.

7 And so we just think it would be inappropriate to --
8 the Court can take judicial notice --

9 **THE COURT:** Counsel --

10 **MS. AXEL:** Okay. Just one more on this point, Your
11 Honor.

12 **THE COURT:** No, just --

13 **(Pause)**

14 **THE COURT:** I can't tell you the hours spent with my
15 special master and even the Court getting involved with the
16 lack of information coming from LAHSA, hours. And if I have to
17 make a record of that, I can start producing lots of witnesses.
18 Do you really want to go there?

19 **MS. AXEL:** But what I would like, Your Honor, is I
20 was just --

21 **THE COURT:** You really want to start producing
22 witnesses on this issue? Because I'm happy to call in A&M.
23 I'm happy to go through what the special master went through.
24 I'm happy to go through the streams of information that this
25 Court had to look at in terms of discovery obstacles here.

1 If you want to pursue this, I'd be happy to pursue
2 this tomorrow.

3 **MS. AXEL:** Two things, Your Honor, I guess. We think
4 that's an appropriate part of trial. They've raised a lot of
5 issues in their letter, this is one of them, we would like to
6 chance to address that. And we do think that's an appropriate
7 issue for trial.

8 **THE COURT:** This is not a reflection, this might have
9 been a prior regime also.

10 **MS. AXEL:** Understood, and we appreciate the history
11 the Court has here, Your Honor, we do. We're just simply
12 saying we weren't at the table, there are things that we'd like
13 to speak to and so we understand the Court can take judicial
14 notice of its own orders in that case, indeed we've put some in
15 our request for judicial notice, we don't fight that at all.

16 But just with respect to some of the facts, there are
17 many things that we did not have a chance to respond to, that
18 at a trial I think we would like to respond to. And we don't
19 think that that entire record is judicially noticeable, given
20 that we were not a party at the table.

21 I would also say before I turn it over to Mr. Pelham
22 for a second, that you know, I think Mr. Essayli's comments
23 here and I think Mr. Ha's argument, I think there's a
24 significant thing that's missing. And that is the immediate
25 action prong under the suspension regulations.

1 They really didn't address it and I think everything
2 that Mr. Essayli said actually points out, they don't have a
3 reason for immediate action here. In fact, what I heard him
4 say was, I hear you, Your Honor, you know, we didn't read your
5 orders before, we weren't here earlier, but we're here now and
6 it's late, but at least we're finally here.

7 All that says to us, Your Honor, is there's not a
8 need for an immediate action, and so this Court should stay the
9 suspension and allow the process to proceed on a more normal
10 trajectory toward a debarment hearing and we get our due
11 process. That's all we're really asking for.

12 The other thing he said, Your Honor, I thought was,
13 you know, his indictment of the City and the Council sort of
14 illustrates the need here for a way for these parties to
15 cooperate. And I understand the Court is trying to incentivize
16 that, you know, you're going to do with what you're going to do
17 with the stakeholders in the room. But again, that's a process
18 that is not going to happen in 20 days and would take some
19 time.

20 I will have some closing points with respect to the
21 effect of the two settlements, but I think that those few
22 points that Mr. Pelham would like to make on the facts and I
23 would turn it over to him, if that's okay.

24 **THE COURT:** Absolutely.

25 **MR. PELHAM:** Thank you, Your Honor.

1 And very briefly, Your Honor, I don't -- I understand
2 that the Court has a number of things in consideration, but I
3 do want to stress that LAHSA, Your Honor, should be evaluated
4 independent of its stakeholders, in terms of its fiduciary
5 capacity with respect to HUD funding, but also with the present
6 time in mind and not the LAHSA that Your Honor confronted last
7 June in the course of the Alliance litigation and that order.

8 And I just want to remind the Court. So our motion -
9 - excuse me, our -- yeah, our motion, the declaration of
10 Ms. O'Neill, the interim president, which is the interim CEO
11 of LAHSA, she sets out, Your Honor, several things that have
12 changed with the agency in the 12 months since Your Honor
13 considered remedial action in the Alliance litigation. So it's
14 not only Ms. O'Neill's appointment as interim CEO, it's also
15 the fact that LAHSA has, as of just recently a new CFO, it also
16 has a new deputy chief of risk management, it's also improved
17 its internal audit function. It has, again as set forth in the
18 declaration, it has issued an RFQ for outside accounting
19 assistance.

20 So, in other words, Your Honor, it's not the same.
21 It's not the same organization and we really stress that
22 because as Ms. O'Neill's declaration makes clear, LAHSA took
23 inside the observations, not only by Your Honor and special
24 master, but also your record from the Alliance litigation and
25 it has taken those things seriously.

1 And we respectfully submit that HUD's action requires
2 a consideration of LAHSA's present responsibility and that
3 requires a view of how things stand today and not data points
4 that go back to 2007.

5 Now, my counterpart stressed two data points since
6 Your Honor's order that by themselves predicate this
7 significant suspension action and one is an audit by the
8 County's auditor controller and one is findings from the single
9 audit.

10 If we start with the --

11 **THE COURT:** What? What?

12 **MR. PELHAM:** The single audit. The internal single
13 audit. So both supposedly are recent data points that have
14 come since Your Honor's order that justify present action.
15 Respectfully they do not. Because neither of them make a
16 finding as to LAHSA's noncompliance with regulatory
17 requirements or with program requirements.

18 So specifically with respect to the single audit,
19 Your Honor, I commend your attention in our reply brief, we
20 quote, that the single audit did not identify instances where
21 LAHSA failed to comply with federal laws or contractual
22 obligations.

23 And we have -- I also commend Your Honor's attention,
24 declaration from Janine Lim, who's currently the CFO. In her
25 declaration she indicates the single auditor did not express an

1 opinion on the effectiveness of LAHSA's internal controls. And
2 the single auditor actually concluded that LAHSA was compliant
3 with requirements related to its major federal programs, which
4 is also consistent with previous fiscal year audits.

5 The -- so much has been made about the delivery of
6 information with respect to both audits, the auditor controller
7 review and the single audit happened at the same time. That's
8 set out in the declarations, Your Honor, and that's why there
9 was some delay in providing information to those two, but
10 again, neither of them made a finding that LAHSA was not in
11 compliance with its federal program requirements.

12 The auditor controller report did make observations
13 about payment delay on state and local funded projects. Your
14 Honor, respectfully HUD relies heavily in their June 11 letter
15 on LAHSA's payment delays with respect to state and local
16 funded programs. We do not -- we do think -- we do not think
17 that those findings or those observations are applicable to an
18 analysis of LAHSA's fiduciary responsibilities on the federal
19 side, and that's just a function of the payment cycle that's
20 different between the two.

21 LAHSA for cost reimbursement programs on the state
22 and local side, it reviews reimbursement requests from
23 providers, then it submits those to City and County, they
24 review those receipts or those requests and then payment is
25 made. Long cycle.

1 On the HUD side, the federal side it is much faster,
2 it's usually a three day turnaround on the draw down because
3 the providers can access a funding portal directly. And so,
4 Your Honor, the fact that there are payment delays on the state
5 and local side, we do not think translate into a finding that
6 LAHSA is presently irresponsible on the federal side.

7 In any event, Your Honor, I also commend your
8 attention, the declarations make clear, that even on that state
9 and local side, LAHSA has made up for us to tighten its
10 communication with providers and shorten those payment lags.

11 Your Honor, there's been some discussion, but what if
12 we bypass -- what if HUD bypasses LAHSA, the City and the
13 County, any government agency, local government agency and goes
14 directly to direct providers, agencies who are on the ground.

15 Your Honor, our submission there is this, there is
16 just not a record -- there's not a record provided by HUD that
17 there's an ability to find at that level, organizations
18 bypassing state and local government, bypassing LAHSA,
19 bypassing other government stakeholders, organizations to fill
20 that breach in the areas that LAHSA currently fills.

21 We just -- we have no information about the
22 organizations that HUD is considering as direct applicants. We
23 don't know what those direct applications would look like. We
24 don't know what the capacities of those organizations would be.

25 What we do know, Your Honor, and again I just

1 respectfully commend it to your attention, we do know at least
2 two providers have indicated that they can't apply directly,
3 they just don't have the infrastructure framework, so they rely
4 on the relationship with LAHSA.

5 Your Honor, what I would commend to the Court is what
6 HUD is doing is conflating two different factual predicates.
7 There's the factual predicate that allows them to initiate
8 investigation because they think that there may be malfeasance
9 or wrongdoing and then there's the factual predicate that
10 allows them to initiate a suspension.

11 They've conflated the two respectfully. What they've
12 said is well, the things that caused us to investigate or the
13 things that prompt us to investigate are the same things that
14 prompt us to suspend you. It should be a two stage process.

15 We have not raised issue with HUD's ability to
16 investigate, to audit, to review, that's a different --
17 however, that's a different factual predicate. That does not
18 automatically mean that because you now have a basis to review,
19 you also have a basis to suspend. And again suspension is a
20 significant and dramatic consequence and it is permanent, it is
21 not simply temporary. It will, as Your Honor knows, it will
22 affect LAHSA's ability to participate in the 2026 NOFO and it
23 may have impact far beyond that.

24 Your Honor, that's -- unless the Court has questions,
25 those are the major factual points I wanted to stress. I'll

1 defer again to my co-counsel.

2 **THE COURT:** Thank you very much.

3 **MR. PELHAM:** Thank you, Your Honor.

4 **MS. AXEL:** Thank you, Your Honor, just a few more
5 points. With respect to addressing, you know, HUD's legal
6 arguments I know the Court has the issues in mind and they're
7 in our briefs, so I'll just make one -- I think we responded to
8 most points in our briefs.

9 I'll just make one limited point which was, Mr. Ha
10 made a statement that we had not identified a violation of
11 regulation and statute and I think we very clearly have and
12 Ms. Myers also made the same argument.

13 I mean, HUD failed to follow the COC regulations
14 relating to sanctions. Those are the more particularized
15 regulations that apply in this instance and they would have
16 given notice and an opportunity to be heard prior to any
17 remedial measures. They didn't follow that regulation.
18 They've never addressed how the HEARTH Act and those
19 regulations interact with the OMB reg that they did choose to
20 use. And it's really the more specific statutory and
21 regulatory framework that applies.

22 Secondly, they also made no finding that COC did not
23 meet the requirements of the HEARTH Act. There was also just
24 something vague said like well, we found that, you know, the
25 COC could not apply because LAHSA can't apply. And that's not

1 their -- again, they have to consider the continuum of care
2 portion of the federal statute of the HEARTH Act in determining
3 that the COC could not meet the requirements. They did not do
4 that.

5 So I think we applied both of those. And as I said,
6 when I was up here before, they've never addressed the
7 immediate action part. And I think all of their conduct and
8 previous knowledge cuts against immediate act.

9 I'll turn to a few more practical matters because I
10 know the Court is interested in those. The Court asked about
11 the effect on the LA Alliance settlement and the VA Settlement.
12 And again, the Court is far more familiar with those than I am.

13 With respect to the LA Alliance we already talked
14 about how the HMIS system provides the data backbone that the
15 City relies on and the County also substantially relies on.
16 And so those metrics that the Court asks for regularly, like
17 simply rely on LAHSA to provide them, and those are extremely
18 complex systems.

19 As I used the example before, you know, Ms. Kuhn,
20 who you're familiar with who testified previously and who
21 administrates that whole system has 50 people who work for her,
22 it took a year to get somebody up to speed, that just cannot be
23 easily transferred in any short period of time to anybody else.
24 And the Court will not be able to get the data, simply it'll
25 just be a blind spot then.

1 They also, the staff pointed out to me one additional
2 factor, which was a little bit more direct to the LA Alliance
3 settlement, which is also that they actually leveraged federal
4 funding to make the commitments that are made to this Court as
5 part of this settlement.

6 So -- and that specifically has to do with the time
7 limited subsidies that provide an additional 2,000 beds. And
8 my understanding is that federal funds pay for the housing
9 navigators that help literally like procure apartments that
10 then are used as part of the time limited subsidies to actually
11 get people off the streets. That's a component of federal
12 funding that is partnered with the state funding to help make
13 the settlement.

14 And so these are all overlapping. And LAHSA also
15 provides the CES data structure, data infrastructure that the
16 housing navigators use and funnels that funding, so they do
17 both of those things. So in that respect the LA Alliance too
18 is also implicated.

19 As to the VA settlement, Your Honor, none of us on
20 our team is an expert in your settlement, so -- but we just
21 over the lunch period brainstormed about how the VA might be
22 affected because the Court had raised it.

23 So in response to your question, the VA uses the HMIS
24 infrastructure to house people. They use LAHSA's supporting
25 matching tools. And, in fact, they have in the past one of the

1 big issues with veterans has been actually identifying them.
2 The VA has apparently had a lot of money to house veterans, but
3 actually just hasn't been able to connect with them necessarily
4 to get them off the street. That's the infrastructure that
5 LAHSA provides.

6 And, in fact, Ms. Kuhn told me over lunch that in a
7 recent meeting with a TA from the VA, that person said, with
8 LAHSA's tools as they are now implemented we believe we can end
9 veteran homelessness in Los Angeles County. And that is a
10 statement from a VA TA to Ms. Kuhn, you know, so in that sense
11 if that is Your Honor's objective with respect to getting
12 veterans off the streets, causing LAHSA to lose the HMIS and
13 CES systems would definitely have an impact on veteran
14 homelessness.

15 Finally, Your Honor, I just want to raise as a highly
16 practical matter if the Court does not grant a preliminary
17 injunction for LAHSA here, and give it a substantial runway and
18 we would ask for that runway to be through the date of trial
19 and we would take a trial date. But even a shorter time
20 period, I must say, Your Honor, we're not sure LAHSA's -- you
21 know, we would get to trial.

22 And maybe that is fine with the Court, but it is
23 something that you should consider in terms of public interest
24 and irreparable harm here. HUD is not funding LAHSA's grant
25 agreements, right, not to its service providers, the people on

1 the street, but not to LAHSA as well.

2 They had one expire for the planning grant in June,
3 one's come up now in Q-3, another one is coming forward, and
4 this whole situation, the suspension letter, and the
5 instability is causing LAHSA to have other funders lose
6 confidence and question and LAHSA has a big budget that is not
7 just, you know, HUD money.

8 So other funders are losing confidence and we have a
9 really great problem, Your Honor, with potential brain drain.
10 You cannot keep employees around and we have highly, highly
11 skilled employees with advanced degrees and marketable skills.

12 As the Court knows, with the County's change in
13 funding, LAHSA laid off about 200 -- eliminated about 250
14 positions last year. They restructured, that restructure
15 provided stability and security to people. Okay. This is what
16 we're going to do, this is how we're streamlined, this is how
17 we're reorganized, we can keep people in these positions, we
18 can make promotions, we can, you know, we can make people feel
19 that their jobs are secure. Now we can't.

20 And so setting aside an orderly transfer of HMIS, if
21 we don't have stability at LAHSA, there's no orderly transfer
22 of HMIS. If Bevin Kuhn and people like her leave, Your Honor,
23 there will be effects, the system will break, it will not work.
24 It took years to make these systems talk together.

25 So I just want to leave the Court with that. We need

1 stability at LAHSA, we need a preliminary injunction for a
2 period of time, if the politicals then work out some other
3 solution in the long term, that's fine, but if that is not
4 handled in an orderly process, you know, there will be all
5 kinds of deleterious consequences for the community. Thank
6 you.

7 **THE COURT:** Thank you. Let me turn to the COC Board.

8 **MS. MYERS:** Thank you, Your Honor, Shayla Myers on
9 behalf of the LA COC. And, Your Honor, I think you've long
10 since recognized the public interest at stake in addressing
11 homelessness in the region. And I think the COC Board shares
12 your concern. And the COC Board would speak as passionately as
13 we possibly can, Your Honor, about the need for stability
14 within the region right now within this particular spot -- pot
15 of funding within -- for this particular population that is
16 served.

17 When I stood up here this morning, Your Honor, to
18 talk to you about why the COC needed to participate in this
19 case it is because the COC is uniquely positioned, relative to
20 bringing together and promoting collaboration in parts of -- in
21 a community that is not even remotely known for its
22 collaboration on any fronts, but this has historically, Your
23 Honor, been a place of collaboration. And as a result of that,
24 it has been a place of stability.

25 And what that stability means is that 11,000 people

1 who have been brought inside, who did the hard work to come
2 inside after being unhoused, sometimes for decades, now have
3 stability as a result of this funding.

4 The COC, Your Honor, is doing exactly what Congress
5 mandated it to do. It's bringing together stakeholders.
6 That's the County, that's the City, that's LAHSA, that's LACDA,
7 that's HACLA, that's every -- that is every abbreviation that
8 you have said in the courtroom today, bringing them altogether
9 to come to the table to set the region's priorities.

10 And as a result of the region's priorities that are
11 set, Your Honor, they come up with rankings and they come up
12 with a strategy for obtaining federal funding. And, Your
13 Honor, that is what the COC has been doing since April when
14 LAHSA became the collaborative applicant, it's what's been
15 doing since June 1st when the collaborative application process
16 opened, when HUD submitted it's NOFO, that is what they have
17 been working on systematically to come up with rankings, to
18 come up with the community's priorities and to put together the
19 consolidated application to put forward the community's demands
20 for congressionally allocated funding. They did exactly what
21 Congress said and we are now 20 days away from that application
22 process, Your Honor.

23 What is happening right now is a crisis in Los
24 Angeles at a place where we have previously not seen crises.
25 And that crisis is happening because of HUD's decision to

1 immediately suspend LAHSA.

2 Your Honor, HUD had before it numerous opportunities
3 to take action against LAHSA, to take the dramatic action that
4 perhaps many, many folks in the room, many folks in the
5 community, perhaps in the courtroom have suggested was
6 necessary against LAHSA. They had the ability based on the
7 record that they have built, as Ms. Mitchell pointed out over
8 20 years, they had the opportunity to bring debarment
9 proceedings against LAHSA.

10 They also had the opportunity to use the regulatory
11 process that is outlined, to bring sanctions against LAHSA. If
12 they had done that, Your Honor, I don't know that we would be
13 here in the same form that we are here today. We would
14 certainly not be before you imploring you to bring process and
15 stability back to the one place in the system that has
16 stability and control.

17 But that is not what HUD chose to do here. They
18 chose to immediately suspend LAHSA and they did so without
19 addressing the concomitant crisis that we are under here now.
20 They made the decision that they would suspend LAHSA and
21 therefore the COC and undermine the collaborative application
22 process, which was clearly going to happen. That is HUD's
23 reasoning, Your Honor, it is clearly what was going to happen
24 as a result of this.

25 They did not take that into account at all and that

1 is to Ms. Axel's point, they did not take into account one of
2 two prongs of the legal reasoning necessary to address an
3 immediate suspension. And as a result of that, Your Honor, we
4 are here. We're in the middle of yet another crisis.

5 And for the 11,000 people who had crises every day in
6 their lives, they are feeling it today. This shift in the
7 application process is not simply an administrative process
8 that HUD is asking for. This shift in using a collaborative
9 application process to the direct to HUD application process is
10 a dramatic shift that is unprecedented, Your Honor, and it is
11 unsupported in federal law.

12 They're attempting to do an end run around the COC
13 process, the congressionally mandated community control that
14 remains in statutes and it remains the COC's obligation to the
15 community.

16 I know that that has been dismissed, that HUD has
17 said that they are simply -- they're going to do their best to
18 abide by the process. But, Your Honor, they cannot replicable
19 the single most important aspect of the COC application
20 process, which is a community collaboration and the community
21 coming together to establish its own priorities.

22 If, Your Honor, that HUD is allowed to move forward
23 with the suspension of LAHSA immediately and the LA COC Region
24 is not allowed to submit the -- its collaborative application,
25 the community will have no voice in how its priorities are

1 ranked and they will have no way to strategically protect the
2 funding that is coming to the region.

3 This is not just about setting the priorities within
4 the 60 percent tier, Your Honor, this is protecting the 40
5 percent application, the 40 percent of funding, this is about
6 protecting the \$240 million that has been allocated for the
7 region and it's about ensuring that the community can come
8 together and apply for that money together.

9 **THE COURT:** The \$241 million it's already earmarked,
10 dedicated, whatever word we want to use, is simply a matter of
11 who's going to distribute it, isn't it?

12 **MS. MYERS:** No, Your Honor, not even remotely. So
13 \$143 million is what we call Tier 1 funding. And that's the
14 money that has been earmarked and that's what counsel for HUD
15 spoke about. That is -- that's where the rankings of the
16 projects matter for purposes of what gets into the top tier.
17 And they had said --

18 **THE COURT:** Just a moment, hold on.

19 **MS. MYERS:** Sure.

20 **THE COURT:** But that money in a sense has already
21 been approved.

22 **MS. MYERS:** Yes, Your Honor, through Congress.

23 **THE COURT:** I used the word dedicated, earmarked,
24 whatever.

25 **MS. MYERS:** Yes, Your Honor. That money --

1 **THE COURT:** So that money -- so the answer is yes.

2 **MS. MYERS:** For the most part.

3 **THE COURT:** Okay. For the most part.

4 **MS. MYERS:** And then, Your Honor, for the first time
5 HUD has reserved some conditions that would allow it to not
6 send the money to the region.

7 **THE COURT:** Yeah, but basically --

8 **MS. MYERS:** For the most part, yes, Your Honor.

9 **THE COURT:** -- it's already been, for want of a
10 better word, approved.

11 **MS. MYERS:** Yes, Your Honor.

12 **THE COURT:** I'm going to say again, if this is
13 already earmarked, dedicated, approved by Congress --

14 **MS. MYERS:** Uh-huh, why does it matter?

15 **THE COURT:** Right. Then we're simply talking about
16 who's going to approve and control this money.

17 **MS. MYERS:** No, Your Honor. What it actually comes
18 down to who is going to get the money and which priorities
19 determine.

20 **THE COURT:** Then I'll use your words, who's going to
21 get the money.

22 **MS. MYERS:** Your Honor, what we mean is, who will
23 remain housed.

24 **THE COURT:** I'm sorry?

25 **MS. MYERS:** Who will remain housed. Your Honor, that

1 is literally the question that we are confronting today.

2 **THE COURT:** Who will what?

3 **MS. MYERS:** Which unhoused folks who came in off the
4 streets are going to continue to be housed.

5 **THE COURT:** So then we're back to the housing first
6 discussion or are we back to the discussion of interim housing,
7 are we back to the discussion of the 30 percent of this
8 administration?

9 **MS. MYERS:** Your Honor, that is a component of it.

10 **THE COURT:** Sure.

11 **MS. MYERS:** But at the end of the day, Your Honor,
12 the COC has the responsibility from Congress to bring the
13 parties together and set priorities for the region. And, Your
14 Honor, they do so not just about the money that is coming in,
15 but they do that in conversation with all of the other money
16 that is coming into the system.

17 Your Honor, as a result of the LA Alliance
18 settlement, for example, there's significant additional
19 resources that are being put to interim housing. Because of
20 the state funding, there's a significant additional money
21 that's coming in as well.

22 The COC's job, Your Honor, is to not allocate the
23 money based on ideology, right, not based on housing first or
24 substance abuse, none of that. It's a balancing system. And
25 that's what the COC does.

1 So the COC sets its priorities, and based on the
2 balancing of the system, and Your Honor knows as well as anyone
3 else, that when you have an unbalanced system, when you have
4 someone who comes into interim housing and they don't move into
5 housing, then they fall back into the streets. And, Your
6 Honor, we're seeing that, we're seeing that the 25 percent
7 increase in homelessness was about people falling into
8 homelessness because there wasn't permanent housing available.

9 So the COC's job is to balance the portfolio and it's
10 about ranking projects that are performing well versus not.
11 HUD does not have to take any of that into account. Congress
12 has set the stage for the community to develop its application
13 and it has spent months, painstakingly doing so. And so that
14 is the immediate harm that we are talking about here, Your
15 Honor.

16 They have had to make incredibly complicated
17 decisions to put forward the strongest application possible to
18 keep the most amount of funding in the region. But, Your
19 Honor, what it comes down is that this Court has an opportunity
20 to bring process back into the chaos that has been created by
21 the immediate suspension.

22 And Your Honor has the ability to do that where HUD
23 was unwilling to do that. We need to take the moment that we
24 are in, Your Honor, and we need to move forward. And Your
25 Honor has the ability to do that, but it is not possible to get

1 out of the crisis moment that we are in and actually affect
2 actual change unless there is an opportunity for the COC to
3 submit the collaborative application. And the way to do that
4 is to allow LAHSA to submit the collaborative application that
5 the community has been preparing, that service providers with
6 the input of unhoused folks, with the input of the government
7 officials that the entire community has been coming together to
8 prepare, that application is 20 days away from being submitted.

9 They need the space and the time, Your Honor, to be
10 able to do that. Your Honor, this is a crisis years in the
11 making, HUD made a decision to immediately suspend LAHSA in the
12 middle of the application process for federal funding.

13 That was a decision that HUD made, Your Honor. Your
14 Honor has the opportunity to slow that process down, to give
15 the community a chance to actually apply for the funding and
16 then give the COC the opportunity and to do what HUD has
17 refused to do, which is to take into account the allegations
18 against LAHSA, the suspension of LAHSA, the potential debarment
19 of LAHSA and make a decision about a new collaborative
20 applicant or to maintain the collaborative applicant, but to do
21 its congressionally mandated duties at this point, Your Honor.

22 I cannot stress this enough. No one, HUD in its
23 letter, has said that the COC has not functioned. They have
24 functioned incredibly well over years. They have -- because of
25 their strong functioning, they have continued to bring money

1 into the region, increasing funding year over year, which means
2 more and more people are brought inside and they need the
3 opportunity for stability to be able to continue to function.
4 And so we would ask, Your Honor, that you grant a suspension or
5 that you stay the suspension, issue a preliminary injunction
6 and give the parties enough time for this to calm down.

7 But, Your Honor, likewise, we hear your position and
8 we hear your concern. So we would ask that the Court set a
9 rigorous trial date. These are very straight forward legal
10 issues that can be easily presented, some of the issues are
11 straight issues that will be presented on the administrative
12 record.

13 The first thing that we would ask is that you order
14 HUD to prepare the administrative record in this case, as
15 expeditiously as possible. They have very good lawyers on
16 their team, they have very smart lawyers on their team, they
17 can prepare that record very fast and move this case to trial
18 as quickly as possible, because then that will get us the
19 certainty that we need.

20 And, Your Honor, I would just -- the last thing that
21 I would say is that the collaborative applicant can be changed.
22 HUD regulations, the statute provides that the collaborative
23 applicant can be changed if necessary. The problem here, Your
24 Honor, is the timing that has created the chaos and so we would
25 just ask for that to be addressed.

1 **THE COURT:** Okay. I may come back to you, but thank
2 you very much. With your permission, can I turn to the City
3 and the County so that HUD has the last word, or would you like
4 to argue now? Last time we turned to the City and the County,
5 but I'm happy to --

6 **MR. ESSAYLI:** Yes, Your Honor, they can go.

7 **THE COURT:** So on behalf of the City.

8 **MR. SOMMER:** Thank you, Your Honor, Randall Sommer.

9 Ms. Axel already mentioned to the Court the City
10 agrees that for the time being that the preliminary injunction
11 should be granted, that the -- that LAHSA should be permitted
12 to submit the NOFO and then some period of time after that, the
13 parties can have time to determine what the path is forward,
14 but that there's no time to do that now and there will be
15 irreparable harm if the preliminary injunction is not entered.

16 **THE COURT:** Thank you very much. On behalf of the
17 County?

18 **MS. HASHMALL:** Good afternoon, Mira Hashmall here for
19 the County of Los Angeles.

20 As I articulated earlier, the County supports LAHSA's
21 request for injunctive relief, just because these deadlines are
22 so imminent and the stakes are so high. The status quo is
23 essential to making sure that that NOFO submission deadline can
24 be met, those programs can be funded, and the services for
25 those vulnerable population are not jeopardized.

1 **THE COURT:** Thank you. How long -- if you decide to
2 continue on, to become a collaborative applicant and maybe even
3 if your own COC, how long do you need concerning the
4 collaborative applicant, not the COC?

5 **MS. HASHMALL:** Your Honor, my understanding from our
6 team is that the application for something like this is usually
7 issued six to nine months before the submission deadline. So
8 there's a huge amount of work that is in the typical cycle goes
9 in, to meeting this submission. My understanding is this
10 year's timeframe is completely unprecedented with regards to
11 the fact that the application's not been issued by HUD and the
12 deadline is about two weeks away. My understanding is that's
13 typically months long.

14 So I -- you know, how that's going to work in 2026 I
15 don't know. But with regards to creation, standing up and
16 implementing a new COC, that too is a long process. There's a
17 regulatory framework that I don't know yet, hopefully don't
18 need to know imminently and that takes time too, Your Honor.

19 **THE COURT:** It's longer obviously than the
20 collaborative applicant.

21 **MS. HASHMALL:** That's right, because it has to do
22 with the entire regional system. And I think that the reason
23 that there is a regional COC is because homeless folks don't
24 just stay in one city, you know, they go for shelter and
25 housing where it best suits their needs and so you have to look

1 at it regionally in order to not have NIMBY-ism and other
2 inefficiencies built into the structure.

3 **THE COURT:** Okay. Thank you very much. Let me turn
4 to HUD.

5 **MS. HASHMALL:** Thank you.

6 **MR. ESSAYLI:** Your Honor, I'm a little concerned
7 about what the County just said, but the Board of Directors
8 have issued a letter to Your Honor, and to quote from there, it
9 says that they are prepared, well positioned and qualified to
10 serve on an emergency basis and to immediately assume the
11 responsibility. So the position of the County Board of
12 Supervisors I'm not sure why that's not consistent with the
13 position of County counsel.

14 **THE COURT:** I take that as immediately also.

15 **MR. ESSAYLI:** Yes. It says it's immediately, Your
16 Honor.

17 Your Honor, we're going to submit on our papers. We
18 ask that the preliminary injunction be denied in its entirety.
19 To the extent the Court is considering an equitable proposal
20 for the preliminary injunction, I would ask on behalf of HUD
21 that we have until close of business tomorrow to submit to Your
22 Honor a proposed timeline and plan for the selection of a
23 collaborative applicant, as Your Honor appears to be
24 contemplating.

25 **THE COURT:** Okay. Thank you.

1 **MR. ESSAYLI:** Would we be allowed to do that, Your
2 Honor?

3 **THE COURT:** Pardon me?

4 **MR. ESSAYLI:** May we file that by close of business
5 tomorrow?

6 **THE COURT:** I'm starting to write tomorrow morning,
7 so absolutely.

8 **MR. ESSAYLI:** Okay. Thank you, Your Honor.

9 **THE COURT:** Back to LA Alliance.

10 **MS. MITCHELL:** Elizabeth Mitchell on behalf of LA
11 Alliance. Your Honor, I don't have a lot more to add to this.
12 I will say that we keep kicking the very expensive and
13 dysfunctional can down the road. And a year ago, we asked the
14 Court to appoint a receiver because we believed the failures
15 had become institutional rather than episodic and we still
16 believe that to be true today.

17 I don't hear anybody saying that it's not true any
18 longer, I suppose. I hear things are getting better and maybe
19 that they are getting better, but it also seems -- well, I
20 guess I would just remind the Court, the Court exercised
21 restraint a year ago. And did not impose a receiver.

22 In large part because it believed that the political
23 branches needed an opportunity to work this out without a
24 judicially imposed resolution. Respectfully, Your Honor, that
25 appears to be what is occurring now, is that the political

1 branches are working it out and again, whether HUD ultimately
2 proves right or wrong is not for LA Alliance to say, but I am
3 hearing proposals on delays in order to get another alternative
4 applicant in and that seems to be an appropriate response in
5 order to allow the system to come together in a way that is
6 maybe more functional, without a collaborative applicant that
7 has not qualified itself. And I would submit on that, Your
8 Honor, thank you.

9 **THE COURT:** Okay. Would counsel give the Court about
10 15 to 20 minutes just to go over my notes? I don't think I
11 have any other questions, but I'd like just that courtesy from
12 you for a moment in case I do, but I think I'll probably bid
13 you goodbye after that that, but I'd like about 20 minutes and
14 then we're recess. Thank you very much.

15 **(Recessed at 2:43 p.m.; reconvened at 3:10 p.m.)**

16 **THE COURT:** First of all, counsel, thank you for your
17 courtesy. If you'd be seated.

18 I have no further questions. I'm going to release
19 you this evening and I want to pay all of you a compliment. I
20 thought the arguments before the Court were excellent and I
21 really appreciate the time and effort you've put into it, so
22 we're in recess and travel safely. And you'll hear from me,
23 thank you.

24 **(Pause)**

25 **THE COURT:** Well, counsel, so you know also, for the

1 U.S. Attorney I've already granted your motion to submit by
2 Friday, I think you heard that. And I will take judicial
3 notice but it's going to be limited. I'm going to limit to the
4 opinion of Kuhn 2025, which was 991 and also to the attorney's
5 fees order Docket 1127, that sets it out as well as the
6 exhibits. So I think that will cover the record.

7 All right. Counsel -- Ms. Myers?

8 **MS. MYERS:** Yes, Your Honor, if they're going to
9 submit something by Friday we would just ask that we be allowed
10 to submit something on Monday or Tuesday in response?

11 **THE COURT:** Sure, Monday by 5 o'clock.

12 **MS. MYERS:** Okay. Thank you, Your Honor.

13 **MS. AXEL:** We would join.

14 **THE COURT:** All right. Travel safely and we have
15 another matter this evening.

16 **MR. ESSAYLI:** Thank you, Your Honor.

17 **(Proceedings concluded at 3:11 p.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



Signed

August 7, 2026

Dated

TONI HUDSON, PRESIDENT