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25 **UNITED STATES DISTRICT COURT**

26 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

27 LOS ANGELES HOMELESS
28 SERVICES AUTHORITY, a joint
powers authority,

Plaintiff,

v.

DONALD J. TRUMP, in his official
capacity as President of the United
States of America; UNITED STATES
DEPARTMENT OF HOUSING AND

Case No. 2:26-cv-07056-DOC-AJR

**PLAINTIFF LOS ANGELES
HOMELESS SERVICES
AUTHORITY'S RESPONSE TO
DEFENDANT'S AUGUST 7, 2026
STATEMENT AND PROPOSAL RE
FY 2026 CONTINUUM OF CARE
COMPETITION**

**[REQUEST FOR EVIDENTIARY
HEARING]**

1 URBAN DEVELOPMENT; SCOTT
2 TURNER, in his official capacity as the
3 Secretary of the U.S. Department of
4 Housing and Urban Development; and
DOES 1-10,

5 Defendants.
6

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I. INTRODUCTION

The defendant's post-hearing Statement and Proposal for Conduct of FY2026 Continuum of Care Competition for Geographic Area of Los Angeles Continuum of Care, filing August 7, 2026 (Dkt. 59) ("8/7/2026 Statement"), walks back HUD's representation at the August 6 hearing that it would agree to continue the deadline for the Consolidated Application of the Los Angeles Continuum of Care ("CoC") for 45 days. HUD then pushes for the direct-to-HUD application "remedy" that LAHSA and the LA CoC have proven illegal as a matter of law, and which would result in the denial of funding to Los Angeles County and literally put formerly unhoused people now in permanent supportive housing back on the streets.

HUD emphasizes that its funding process is a competition in which HUD evaluates applications from CoCs around the country against each other to determine who gets the Tier 2 funding, so it must evaluate the LA region's applications at the same time as the rest of the nation's. (Dkt. 59 at 3-4.) This is true and, contrary to the suggestion HUD made on the record on August 6, the Tier 2 funding (\$95 million for FY '26) is *not* guaranteed to Los Angeles County as part of the Congressional appropriation. The Tier 2 funding is always up for grabs, and CoCs are measured against each other to determine who gets it, hence the word "competition." This is the acute relevance of the fact that LAHSA has achieved high scores on the Collaborative Application year after year: a high score is what entitles a CoC to the competitive Tier 2 funding, and LAHSA's high-quality work on the application is what has secured the funding for the region year after year.¹

¹ Because the role of the Collaborative Applicant involves preparing and submitting the consolidated application for the CoC in a competitive process, the skills, expertise, and capacity of the applicant directly impact the amount of funding the region is awarded, and which projects are awarded. Transitioning the Collaborative Applicant to another entity without significant time and capacity risks individuals currently in housing losing their housing if different projects are awarded or the region is less successful in being awarded funds.

As HUD acknowledges, on August 7, 2026, Judge McElroy in the District of Rhode Island struck down the FY '26 NOFO as violation of the Administrative Procedures Act (“APA”). (*See Dkt. 59 at 6.*) HUD claims that “these rulings will [not] fundamentally alter” its direct-to-HUD application plan for the LA CoC (*id.*), but that is wrong. With that order, HUD’s direct-to-HUD application process for the LA CoC has also been invalidated, because the direct-to-HUD “remedy” for the LA CoC is a modification to the now-invalidated FY '26 NOFO. HUD’s Los Angeles-specific modification was also part of the same FY '26 national competition, reflecting the same Tier 1 and Tier 2 priorities that were just struck down. As HUD itself admits, there is no funding without the national competition, which cannot happen now without a whole new FY '26 NOFO. Accordingly, there is no schedule for the FY '26 competition, no application open to submit,² and no immediate deadline affecting the Collaborative Application.

This Court should grant a preliminary injunction in favor of LAHSA through a merits determination. HUD cannot show any need for “immediate action,” so it cannot meet the standard for suspension. It also has failed to controvert LAHSA’s overwhelming showing of irreparable harm. The Court should order HUD to immediately execute all the FY '25 grant agreements for funds that previously were awarded. It also is essential that LAHSA continue to perform its HMIS, CES, and PIT and HIC functions. LAHSA provides HMIS and PIT Count services not only for the LA CoC, but also for the four other CoCs in Los Angeles County. If LAHSA shuts down, the HMIS and CES systems will fall apart, stalling the path for the nearly 25,000 people on the waiting list for permanent supportive housing. Further, neither the City nor the County can comply with the LA Alliance settlements, which

² This morning, HUD issued an announcement noting that the NOFO had been invalidated and stating that, due to the court’s order, “the 2026 CoC NOFO and its August 26, 2026, application submission deadline are no longer in force as HUD is unable to accept applications at this time.” (*See Exhibit A.*)

1 require real-time reporting from the HMIS system. LAHSA also should be permitted
2 to submit a Consolidated Application at the appropriate time unless and until the LA
3 CoC designates a new entity to do so on its behalf.

4 If the Court is not inclined to grant a preliminary injunction through a merits
5 trial in February 2027 (the trial date suggested by the Court during the hearing),
6 LAHSA requests a temporary restraining order (“TRO”) through an evidentiary
7 hearing on the preliminary injunction, to be set after Labor Day. At the hearing,
8 HUD made clear that, although it provided no declarations to controvert LAHSA’s
9 detailed declarations setting forth the irreparable harm that would ensue if LAHSA
10 ceased its programmatic functions, HUD nevertheless disputed LAHSA’s proffered
11 facts based on information outside the record, claiming that HMIS, CES, and other
12 programmatic functions can be easily transferred to the County. Consequently, if the
13 Court does not accept LAHSA’s declarations in full, the Court should deem the facts
14 disputed and set an evidentiary hearing on the Preliminary Injunction, to be
15 scheduled after Labor Day.

16 **II. ARGUMENT**

17 **A. The Court Should Grant the Preliminary Injunction Through** 18 **the Adjudication of the Merits**

19 The Court should grant the preliminary injunction because HUD failed to
20 show any need for immediate action or to rebut LAHSA’s claim for irreparable
21 harm, and set the matter for trial in February 2027.

22 The suspension test is met only if HUD determines both that (1) “adequate
23 evidence”³ of a cause for debarment exists, and (2) that “immediate action is

24 _____
25 ³ HUD also has failed to show adequate evidence for the suspension. LAHSA
26 successfully argued that there is no nexus between the alleged conduct in the June
27 11 letter and LAHSA’s Collaborative Applicant role. HUD had no response, and in
28 its makes a halfhearted attempt to link them on page one of its 8/7/2026 Statement,
but none of the alleged documentation, data collection, or performance monitoring
issues are linked to the Consolidated Application planning or submission. HUD’s

1 necessary to protect the public interest.” 2 C.F.R. §§ 180.700, 180.800. “[A] court
2 reviewing agency action under the APA must limit its review to the administrative
3 record.” *Cnty. of Amador v. United States Dep’t of the Interior*, 872 F.3d 1012, 1020
4 (9th Cir. 2017) (internal quotations omitted); *see also Ceguerra v. Sec’y of Health &*
5 *Human Services*, 933 F.2d 735, 738 (9th Cir. 1991) (“A reviewing court can
6 evaluate an agency’s decision only on the grounds articulated by the agency”).⁴

7 Neither in its papers nor in the August 8, 2026 hearing has HUD ever
8 provided any reason why “immediate action” is necessary. It is not. The Court itself
9 pointed to issues that it believes—based on the evidentiary record in the LA
10 Alliance case—occurred decades or at least several years ago. (Dkt. 57 at 61.) The
11 Court asked the government “What took you so long?” (*Id.*)

12 After skipping the immediate harm issue entirely in its argument, USA
13 Essayli’s remarks cut against any claim for the necessity of immediate action by
14 admitting that, in the government’s view, the action was a long time coming. He
15 stated: “Are we late? Yes. But are we here now? We’re here now.” (*Id.* at 88.)
16
17

18 conflict of interest claims are either flatly false (*see Dkt. 24 at 21, 24-36*) or wholly
19 speculative.

20 ⁴ During the August 6, 2026 hearing, this Court stated that it would take judicial
21 notice of two orders from the LA Alliance matter: (1) the June 24, 2025 Order
22 Granting in Part and Denying in Part Plaintiffs’ Motions for Settlement Compliance;
23 and (2) the January 6, 2026 Order Granting Plaintiff’s Motion for Attorneys’ Fees
24 and Granting Intervenors’ Motion for Attorneys’ Fees in the LA Alliance matter.
25 (Dkt. 57, 08/06/26 Hr’g Tr. 144:2-6.) However, HUD’s June 11 suspension notice
26 did not cite to or rely on any factual findings from either of these orders. It
27 mentioned the June 24, 2025 Order only once for the proposition that the Court
28 “consider[ed]” placing LAHSA into receivership.” (Dkt. 24-24 at 6.) HUD did not
cite or mention the fees order at all. (*See id.*) Accordingly, these orders and any
findings contained therein were not, and cannot be treated as, the basis for HUD’s
suspension. *See Ceguerra v. Sec’y of Health & Human Services*, 933 F.2d 735, 738
(9th Cir. 1991).

1 These statements prove LAHSA's point that there is no need for immediate
2 action. If, as the Court and HUD would have it, LAHSA is part of a "dysfunctional
3 system" with issues going "back decades" (*id.* at 61),⁵ during the last two years,
4 LAHSA nevertheless successfully submitted the FY '24 Collaborative
5 Application—which achieved full funding for the region—and was awarded grants
6 for FY '25 as recently as June 2026, eight days before the June 10 letter. The Court
7 has more than sufficient record to find that HUD has no evidence of immediate
8 need, and a preliminary injunction is therefore appropriate.

9 LAHSA has also proven irreparable harm. LAHSA offered the declarations of
10 Gita O'Neill, Paul Rubenstein, Jessica Reed, Bevin Kuhn, and Kim Farnham, all of
11 whom have detailed knowledge of different aspects of LAHSA's programmatic
12 functions and service providers who describe who these systems serve and how
13 LAHSA and the unhoused would be harmed by LAHSA's suspension. HUD offered
14 no evidence of its own or refuted any of the declarations submitted by LAHSA.
15 Those declarations should be treated as uncontroverted. *See AK Futures LLC v.*
16 *Boyd St. Distro, LLC*, [35 F.4th 682, 691–92](#) (9th Cir. [2022](#)) (finding that a "verified
17 complaint or supporting affidavits may afford the basis for a preliminary injunction"
18 unless they are "substantially controverted by counter-affidavits" and relying on
19 uncontradicted sworn declaration (quoting *K-2 Ski Co. v. Head Ski Co.*, [467 F.2d](#)
20 [1087, 1088–89](#) (9th Cir. [1972](#)); *Arch Ins. Co. v. Sierra Equip. Rental, Inc.*, No. CIV
21 S-12-0617 KJM, [2012 WL 5897327](#), at *5 (E.D. Cal. Nov. 13, 2012) ("As
22 defendants have not provided any facts contradicting Arch's claims, this prong of
23 the preliminary injunction test is met"); *Trak Inc. v. Ski-Trac, Inc.*, No. C-80-0190
24 SAW, [1980 WL 30262](#), at *3 (N.D. Cal. Apr. 29, 1980) ("Although given the
25

26 ⁵ For the reasons set forth in LAHSA's TRO application and reply brief, LAHSA
27 does not concede any of the alleged issues in the June 10 letter, has thoroughly
28 rebutted them, and will address them at the trial of this matter and in the
administrative hearing before the ALJ.

1 opportunity to do so, defendants have not submitted counter-affidavits to rebut the
2 affidavits submitted by plaintiff. Accordingly, for the purposes of this motion for a
3 preliminary injunction, the Court takes as true the statements of fact contained in
4 plaintiff's affidavits and verified complaint."); *Williams v. San Francisco Unified*
5 *Sch. Dist.*, 340 F. Supp. 438, 442 (N.D. Cal. 1972).

6 **B. In the Alternative, the Court Should Grant a TRO and Set an**
7 **Evidentiary Hearing on the Preliminary Injunction**

8 If, however, the Court is not inclined to grant a stay and preliminary
9 injunction through the merits adjudication, LAHSA requests a TRO until an
10 evidentiary hearing can be held on the preliminary injunction. At an evidentiary
11 hearing, the Court would hear evidence from both parties on HUD's claims during
12 the hearing that there is no irreparable harm because LAHSA's programmatic
13 functions can be transferred to other entities, most notably the County, and HUD's
14 related claim that the public interest does not require a stay.

15 While LAHSA believes that the uncontroverted declarations it has submitted
16 are sufficient to meet the preliminary injunction standard, and that HUD has failed
17 to controvert them with declarations, during the August 6 hearing, HUD relied on a
18 letter (lodged in the LA Alliance case) signed by the Los Angeles County Board of
19 Supervisors and sent to the Los Angeles CoC on July 24, claiming that the County
20 could immediately take over LAHSA's core functions of Collaborative Applicant,
21 HMIS lead, and CES coordinator.

22 As an initial matter, the County's representation is not properly before the
23 Court. It is not submitted by a declarant, and neither the County nor the City are real
24 parties in interest in this case. A real party in interest is the party to whom the
25 relevant substantive law grants a cause of action. *See U-Haul Int'l, Inc. v. Jartran,*
26 *Inc.*, 793 F.2d 1034, 1038 (9th Cir. 1986). California's Joint Exercise of Powers Act
27 provides that a joint powers authority "is a public entity separate from the parties to
28 the agreement that created it." Cal. Gov't Code §§ 6507, 6500 (defining a "public

1 agency to include “any joint powers authority”). Section 6508 goes further,
2 expressly granting a joint powers authority the power to sue and be sued in its own
3 name when the agency is authorized to: (1) make and enter contracts, (2) employ
4 agents and employees, (3) acquire, construct, manage, maintain or operate any
5 building, works or improvements, (4) acquire, hold or dispose of property, or (5)
6 incur debts, liabilities, or obligations. Cal. Gov’t Code § 6508. LAHSA plainly
7 satisfies these criteria: it enters into contracts with HUD and service providers,
8 employs staff, manages grant funds, and incurs obligations on behalf of the LA
9 CoC. Indeed, LAHSA—not the City or County—is the direct recipient that signs
10 grant agreements with HUD, making LAHSA the entity whose rights are at stake
11 and the proper party to litigate any dispute arising from those agreements.

12 As LAHSA pointed out at trial, the LA Alliance record cannot be
13 incorporated by reference here, as LAHSA was not a party and had no opportunity
14 to object or cross-examine witnesses, or call its own witnesses in rebuttal. *Lee v.*
15 *City of Los Angeles*, [250 F.3d 668, 688 \(9th Cir. 2001\)](#) (courts may not “[take]
16 judicial notice of the truth of disputed factual matters”); *see also Jeremiah M. v.*
17 *Crum*, [695 F. Supp. 3d 1060, 1075 \(D. Alaska 2023\)](#) (“courts may not take judicial
18 notice of the truth of any factual findings in other courts’ documents”); *Taylor v.*
19 *Sturgell*, [553 U.S. 880, 892 \(2008\)](#) (“A person who was not a party to a suit
20 generally has not had a ‘full and fair opportunity to litigate’ the claims and issues
21 settled in that suit”). The plaintiff LA Alliance has no standing to express opinions
22 as to the merits of this matter based on matters outside the record in this case.

23 Further, the County’s representation that it could take over LAHSA’s
24 functions was walked back during the hearing by outside counsel to the County, and
25 the City’s counter-letter further proves that there is no agreement among these
26 stakeholders as to how these functions in fact could get done.

27 In any event, LAHSA disputes the representations in the County’s letter and,
28 if the Court is going to consider them, LAHSA requests an evidentiary hearing on

1 the facts, particularly as to the HMIS and CES functions. Where the facts
2 concerning a preliminary injunction are in dispute, a court generally conducts an
3 evidentiary hearing. *See Charlton v. Estate of Charlton*, 841 F.2d 988, 989 (9th Cir.
4 1988); *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 518 F. Supp. 2d 1197,
5 1240 (C.D. Cal. 2007).

6 LAHSA submits that it is critical that the Court understand in detail how the
7 HMIS and CES systems work today, which is different even than the lookback
8 period reflected in the Alvarez & Marsal assessment from the LA Alliance matter.
9 While LAHSA would meet-and-confer with counsel for HUD and the LA CoC as to
10 the scope of witnesses each party may offer at such evidentiary hearing, at minimum
11 it would include LAHSA's subject matter experts as to the HMIS and CES systems,
12 and Wendy Wu, the Special Master assigned to oversee the data management
13 portion of the City's LA Alliance settlement.

14 However, should the Court set an evidentiary hearing, LAHSA must have a
15 TRO during the suspension in order to survive. A TRO that preserves the status quo
16 is absolutely critical to prevent the complete capsizing of the homelessness
17 infrastructure throughout Los Angeles County. In the status quo negotiations in July,
18 HUD had no problem with LAHSA continuing to perform its HMIS, CES, and PIT
19 and HIC count functions during the status quo period. But, without an order from
20 this Court that stays the suspension at least through an evidentiary hearing, LAHSA
21 cannot continue to execute these critical functions. It is not receiving the already-
22 awarded funding from HUD that supports its CES staff, and other LAHSA funders,
23 who support HMIS and the PIT Count, among other things are concerned they
24 cannot legally provide funding if LAHSA is in fact suspended. LAHSA will shut
25 down, and the computers will turn off.

C. A TRO or Preliminary Injunction Must Stay the Suspension and Require HUD to Sign the FY '25 Grant Agreements for Already Issued Awards

To continue even through an evidentiary hearing in September, LAHSA must have a TRO or stay of the suspension that permits it to continue in its programmatic functions. Such a stay must include an order that HUD sign the FY '25 grant agreements and permit LAHSA and its subgrantees to receive the awarded FY '25 grants. These grants are critical to boots-on-the-ground service providers such as House of Ruth and Penny Lane, who submitted declarations, as well as the other 10 service providers addressed in the Reed Declaration. As discussed at the hearing, additional service providers are added to that list every day, and those include organizations that serve domestic violence victims, and the disabled.

The order must also include that LAHSA have its own pending grant agreement executed. HUD is not the sole or even the primary funder of LAHSA's functions, as the application explains. But HUD requires that local authorities provide certain matching funds to support LAHSA's core programmatic functions, but if HUD does not fund its share, these local authorities may not provide their matching funding, and it may rapidly lead to a downward cycle, causing layoffs or a voluntary mass exodus of employees that would lead to the same cascade of irreparable harms as a suspension.

III. CONCLUSION

For the foregoing reasons, LAHSA respectfully requests that the Court enter the preliminary injunction and set a merits hearing in February 2027 or, in the alternative, enter a TRO with an evidentiary hearing in September 2026.

DATED: August 10, 2026

WAYMAKER LLP

By: /s/ Keri Curtis Axel

KERI CURTIS AXEL

Attorneys for Plaintiff

Los Angeles Homeless Services Authority

1 DATED: August 10, 2026

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5 *Attorneys for Plaintiff*

6 *Los Angeles Homeless Services Authority*
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EXHIBIT A

From: [SNAPS-PROGRAM-INFORMATION](#)
To: SNAPS-PROGRAM-INFORMATION-L@hud.gov
Subject: FY2026 Continuum of Care (CoC) NOFO Update
Date: Monday, August 10, 2026 2:06:15 PM
Attachments: [Outlook-wiegfnda.png](#)

Notice of Court Order

On Friday, August 7, 2026, the U.S. District Court for the District of Rhode Island in the related cases State of Washington, et al. v. HUD, et al., 1:26-cv-00439 (D.R.I.), and National Alliance to End Homelessness, et al. v. HUD, et al., 1:26-cv-00436 (D.R.I.), determined HUD's issuance of its FY2026 Continuum of Care Competition and Youth Homeless Demonstration Program Grants Notice of Funding Opportunity (2026 CoC NOFO) violated the Administrative Procedure Act and vacated it. HUD is currently evaluating the order and considering all legal options, including appeal to the U.S. Court of Appeals for the First Circuit.

Despite the order, HUD stands by the lawfulness of the 2026 CoC NOFO because HUD knows that Americans deserve and support commonsense homelessness solutions that restore recovery, self-sufficiency, and accountability for outcomes as set forth in the 2026 CoC NOFO.

Guidance for Current Applicants

Due to the court's order, the 2026 CoC NOFO and its August 26, 2026, application submission deadline are no longer in force as HUD is unable to accept applications at this time. HUD will communicate further guidance and additional updates via the SNAPS Competition Listserv and HUD.gov as they become available. A PDF copy of the 2026 CoC NOFO remains available for informational purposes on the CoC competition page on HUD.gov. Questions regarding the 2026 CoC NOFO may continue to be submitted to CoCNOFO@hud.gov.



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