

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ENDOWMENT FOR
DEMOCRACY,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

No. 1:25-cv-648-DLF

JOINT STATUS REPORT

Plaintiff the National Endowment for Democracy (Endowment) and Defendants United States of America, et al. (Defendants) submit this joint status report, as required by this Court’s Minute Order of May 5, 2025. The parties report as follows on the developments respecting the Endowment’s funding since the filing of a Joint Status Report (JSR) on April 30 (Dkt. 17).

1. *Background.* The Third Continuing Resolution for Fiscal Year 2025 (“CR3”) became law on March 15, 2025. As the Endowment previously explained, in that Continuing Resolution, Congress appropriated an additional \$172,620,000 for the National Endowment for Democracy. Since the passage of that law, the Office of Management and Budget (OMB) has not apportioned the full amount that Congress has appropriated. Instead, OMB has provided 30-day apportionments of funding each month. In the last JSR, the parties explained that “[o]n April 17, Defendants’ counsel advised that the full-year apportionments from [OMB] will only be available after agencies submit full-year spending plans, and that the State Department was working on submitting its full-year spending plan.” Dkt. 17 at 1-2. Furthermore, “[o]n April 29, Defendants’ counsel advised that their understanding was that a full-year spending plan still had not been

submitted, but that the State Department was aiming to do so [that] week—potentially in the next day or two.” *Id.* at 2.

Following the last JSR, counsel for the parties corresponded regarding the State Department’s submission of a full-year spending plan. Counsel for Defendants advised that the State Department submitted a draft full-year spending plan to OMB for review during the week of April 28, and State and OMB are currently conferring regarding the contents of that draft spending plan. Counsel for Defendants further advised that State and OMB expect to have an approved full-year spending plan prior to June 12, but may not have a final spending plan approved before May 13—the date through which the current apportioned funding extends—and thus the Endowment is expected to receive another 30-day apportionment for programming through June 12. According to Defendants’ counsel, once State submits and OMB approves an account-specific apportionment for the Endowment’s account, another 30-day apportionment at that point would not be necessary.

2. *The Endowment’s Position.* The Endowment remains concerned about its CR3 funding. It has now been nearly two months since CR3 became law, yet the Executive Branch has failed to apportion and obligate the full amount that Congress appropriated. Under the laws passed by Congress respecting the Endowment’s funding, the Executive Branch has no discretion to make less than the full appropriated amount available to the Endowment. The Endowment reiterates that its ability to fulfill its mission depends on consistent, sustained access to funding. OMB’s current practice of apportioning the Endowment’s funds in 30-day increments is a significant departure from past practice and is undermining the Endowment’s ability to plan, approve, and disburse grants. It also threatens the Endowment’s ability to support its grantmaking projects. The Endowment continues to seek a full and immediate apportionment and obligation of the funds appropriated by Congress for the Endowment in Fiscal Year 2025.

3. *Defendants' Position.* For the avoidance of doubt, Defendants do not concede that anything unlawful, inappropriate, or inconsistent has occurred with respect to the Endowment's funding, or that the Endowment is currently experiencing any cognizable harms given that the Endowment is currently expected to receive obligated funding for activities through June 12.

4. *The Parties' Proposal.* Defendants believe that a further stay of proceedings in the litigation is the best course. The Endowment is amenable to a further stay of proceedings at this time, but may need to reconsider the appropriateness of such a stay in the near future, such as in the event that OMB does not apportion the full amount appropriated for the Endowment in CR3 upon approval of the State Department's full-year spending plan. The parties therefore propose that the Court order a further stay of proceedings and an additional JSR to be submitted on or before June 12, which is the date by which OMB and State expect to have an approved full-year spending plan.

Dated: May 12, 2025

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

/s/ Daniel Schwei
DANIEL SCHWEI
Special Counsel (N.Y. Bar)
JULIA A. HEIMAN
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs
Branch
1100 L Street NW
Washington, DC 20530
Tel.: (202) 305-8693
Fax: (202) 616-8460
Email: daniel.s.schwei@usdoj.gov

Counsel for Defendants

/s/ Donald B. Verrilli, Jr.

Donald B. Verrilli, Jr. (D.C. Bar No. 420434)
Ginger D. Anders (D.C. Bar No. 494471)
Jeremy S. Kreisberg (D.C. Bar No. 1048346)
Helen E. White (D.C. Bar No. 1741368)
Esthena L. Barlow (D.C. Bar No. 90000252)
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Avenue NW, Suite 500E
Washington, D.C. 20001
(202) 220-1100
Donald.Verrilli@mto.com
Ginger.Anders@mto.com
Jeremy.Kreisberg@mto.com
Helen.White@mto.com
Esthena.Barlow@mto.com

Gabriel M. Bronshteyn (*pro hac vice*)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, Twenty-Seventh Floor
San Francisco, California 94105
(415) 512-4000
Gabriel.Bronshteyn@mto.com

*Attorneys for the National Endowment for
Democracy*