ORAL ARGUMENT SCHEDULED FOR FEB. 6, 2026

No. 25-5148

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NATIONAL COUNCIL OF NONPROFITS, et al.,

Plaintiffs-Appellees,

v.

OFFICE OF MANAGEMENT AND BUDGET, et al.,

Defendants-Appellants,

On Appeal from the United States District Court
for the District of Columbia

BRIEF OF *AMICI CURIAE* 8 TRIBAL ORGANIZATIONS IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), the undersigned counsel certifies as follows:

A. Parties and Amici

Plaintiffs in the district court, and appellees here, are National Council of Nonprofits, American Public Health Association, Main Street Alliance, and SAGE. Defendants in the district court, and appellants here, are the Office of Management and Budget and Russell T. Vought, in his official capacity as OMB Director. The case was originally filed against Matthew Vaeth, in his official capacity as Acting Director; he was automatically substituted by Director Vought. In the district court, Beatrice Adams moved to intervene in support of defendants; that motion was denied. The American Center for Law and Justice was amicus in district court and in this court.

B. Rulings Under Review

The rulings under review were entered in *National Council of Nonprofits v. Office of Management and Budget*, No. 25-cv-239 (D.D.C.), by the Honorable Loren L. AliKhan. They are the February 25, 2025 order and opinion granting a preliminary injunction (J.A. 315, 354). The district court's opinion is published at *National Council of Nonprofits v. Office of Management and Budget*, 775 F. Supp. 3d 100 (D.D.C. 2025).

C. Related

This case was not previously before this Court. Related issues are pending before the First Circuit in *New York v. Trump*, Nos. 25-1236, 25-1413 (1st Cir.), and *Woonasquatucket River Watershed Council v. USDA*, No. 25-1428 (1st Cir.). Counsel is not aware of any other pending related cases.

D. Corporate Disclosure Statement

Pursuant to Fed. R. App. P. 26.1 and 29(c)(1) *Amici* National Congress of American Indians, United South and Eastern Tribes Sovereignty Protection Fund, National Indian Child Welfare Association, National Indigenous Women's Resource Center, Alaska Native Women's Resource Center, National Association of Tribal Historic Preservation Officers, California Tribal Chairpersons Association, and Affiliated Tribes of Northwest Indians state that they do not have parent corporations, nor are they publicly traded.

s/ Allison A. Neswood
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GLOSSARY

AKNWRC	Alaska Native Women's Resource Center
APA	Administrative Procedure Act
ATNI	Affiliated Tribes of Northwest Indians
CTCA	California Tribal Chairpersons Association
IHS	Indian Health Service
NATHPO	National Association of Tribal Historic Preservation Officers
NCAI	National Congress of American Indians
NICWA	National Indian Child Welfare Association
NIWRC	National Indigenous Women's Resource Center
OMB	Office of Management and Budget
THPOs	Tribal Historic Preservation Officers
USET SPF	United South and Eastern Tribes Sovereignty Protection Fund

INTEREST OF *AMICI CURIAE*[1]

Amici are Tribal non-profit organizations advocating to the federal government on behalf of Tribal Nations, Tribal communities, and Native people.

The National Congress of American Indians (NCAI) is the oldest and largest national membership organization of American Indian and Alaska Native Nations and their citizens. Since 1944, NCAI has advised and educated Tribal, state, and federal governments on issues of Tribal sovereignty, federal Indian law, and policy affecting Native Nations.

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is a non-profit, inter-Tribal organization advocating on behalf of 33 federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Turtle Island.[2] USET SPF strives to protect, promote, and advance

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[1] Pursuant to Fed. R. App. P. 29(c)(5), neither a party nor party's counsel authored this *amicus* brief, in whole or in part, or contributed money with the intention of funding the preparation or submission of this brief. Pursuant to Fed. R. App. P. 29(b) counsel for both parties have indicated that they consent to the filing.

[2] USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at

Tribal Nations' exercise of inherent sovereign rights and authorities, and it works to elevate the voices of Tribal Nations to ensure the United States fully delivers on its trust and treaty obligations.

The National Indian Child Welfare Association (NICWA) protects the safety, health, and cultural identity of Native children and families today and for future generations. NICWA strengthens Tribal capacity to prevent child abuse and neglect, advances policies that uphold Tribal Sovereignty, and promotes Native-led, culturally grounded approaches to child welfare.

The National Indigenous Women's Resource Center (NIWRC) is a national Native-led organization with 15 years of experience advancing the safety and sovereignty of Native women through survivor-centered advocacy, storytelling, and policy change. NIWRC's mission is to provide national leadership to promote safety for Native women and communities by supporting culturally grounded grassroots advocacy.

Alaska Native Women's Resource Center (AKNWRC) advocates for the safety of women and children in their communities and homes, especially against domestic and sexual abuse and violence. AKNWRC provides a voice at the local,

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Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

statewide, national, and international levels for life-saving changes needed in laws, policies, and social norms.

The National Association of Tribal Historic Preservation Officers (NATHPO) is a non-profit membership organization of Tribal Historic Preservation Officers (THPOs) that supports and encourages Tribal historic preservation programs. NATHPO provides guidance to preservation officials, elected representatives, and the public about national historic preservation legislation, policies, and regulations. NATHPO promotes Tribal sovereignty, develops partnerships, and advocates for Tribes in governmental activities on preservation and funding issues.

California Tribal Chairpersons Association (CTCA) is a membership organization of Tribal leaders collaborating, promoting, improving, and advocating for Tribal sovereignty, natural and cultural resource protection, health and wellness of Native people, education, economic development for Tribal Governments, and other priorities identified by individual Member Tribes and Regional Associations and approved by the CTCA as a common objective. The CTCA is organized as a Tribal resource and recognized as a central point for Tribal issues in California.

The Affiliated Tribes of Northwest Indians (ATNI) was founded in 1953 and is dedicated to the protection and advancement of Tribal sovereignty and self-determination. ATNI is a nonprofit organization that serves 57 Tribal Nations in the greater Northwest that includes Tribes in Oregon, Idaho, Washington, Alaska,

California, and Montana. For more than 70 years, the member Tribes of ATNI have provided regional leadership and advocacy for Northwest Tribal interests.

Amici have a strong interest in ensuring the United States delivers on its debt-based trust and treaty obligations to Tribal Nations and Native people. When Congress appropriates funding to Indian Country in furtherance of those obligations and the Executive Branch refuses to use or distribute those funds for their intended purposes, the United States fails to live up to its legal and moral promises and duties. Indian Country relies on the federal government to deliver on its trust and treaty obligations because the United States and its predecessor colonizing governments took the lands and resources upon which we would otherwise subsist, and they limited Tribal Nations' inherent sovereign rights and authorities to generate governmental revenue. Thus, *Amici* have a deep interest in ensuring the Administration is prevented from pausing or terminating any federal funding that flows to Indian Country, including funding implicated by the preliminary injunction issued in this case.

SUMMARY OF ARGUMENT

The district court properly granted a preliminary injunction against the Office of Management and Budget's (OMB) directive requiring federal agencies to pause and review a large swath of federally funded programs (Funding Freeze Directive or Directive). As Plaintiffs explain in their brief, that action violated the Administrative

Procedure Act (APA), and such a policy, if allowed to go into effect, would cause irreparable harm in contravention of the public interest. *Amici* write separately to underscore the unique and outsized harms that the Funding Freeze Directive would inflict on Tribal Nations and Tribal communities—harms that breach the federal government's trust and treaty obligations and further shift the public interest firmly in favor of injunctive relief.

The United States incurred a debt to Tribal Nations in taking from us nearly two-billion acres of resource-rich land through war, treaty-making, and other coercive means. This debt is owed as long as the United States holds those lands and resources, and it carries with it trust and treaty obligations—the countless promises and duties to Tribal Nations and Native people that the United States has accumulated by its words and actions. One way the United States delivers on its debt-based trust and treaty obligations is by providing services and associated funding to Indian Country—precisely the types of services and funding that the Funding Freeze Directive disrupted.

The Funding Freeze Directive violated the United States' trust and treaty obligations by placing more than $24.5 billion for Indian Country at risk. OMB ordered federal agencies in January 2025 to halt a broad and ill-defined swath of federally funded programs and review them for compliance with the President's

Executive Orders.[3] This caused critical funds flowing to Indian Country for health care, housing, education, public safety, economic development, and other essential purposes to quickly evaporate with little warning, even before the Funding Freeze Directive was set to take effect. Only the rapid action of the federal judiciary mitigated the full scale of the imminent and life-threatening harm to Tribal Nations and Tribal communities that otherwise might have occurred.

The magnitude of the likely harm to Indian Country, and the public interest in avoiding those harms and in honoring sacred trust and treaty obligations, demand that further harm be avoided by affirming the preliminary injunction in full.

[3] Specifically, the Funding Freeze Directive required that: "Federal agencies **must temporarily pause** all activities related to obligation or disbursement of all Federal financial assistance, . . . including, but not limited to, financial assistance for foreign aid, nongovernmental organizations, DEI, woke gender ideology, and the green new deal." OMB Memo M-25-13, *Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (Jan. 27, 2025) (emphasis in original). OMB offered a broad and vaguely worded definition of federal "financial assistance" that included: "(i) all forms of assistance listed in paragraphs (1) and (2) of the definition of this term at 2 C.F.R. 200.1; and (ii) assistance received or administered by recipients or subrecipients of any type except for assistance received directly by individuals." *Id.* *Amici* do not contend that Indian Country was an intended or unavoidable target of this definition. Nevertheless, disruptions occurred.

ARGUMENT

I. THE UNITED STATES HAS DEBT-BASED TRUST AND TREATY OBLIGATIONS TO PROVIDE SERVICES AND ASSOCIATED FUNDING TO TRIBAL NATIONS AND TRIBAL COMMUNITIES

A. Tribal Nations are inherently sovereign governments to which the United States owes debt-based trust and treaty obligations

Tribal Nations are inherently sovereign governments, a status that predates the arrival of Europeans and exists independently from the United States' affirmation, by treaty or otherwise. While not dependent on external affirmation by any colonizer, Tribal Nations' inherent sovereignty is nonetheless recognized and embedded in the United States' founding document. U.S. Const. art. I, § 8, cl. 3 (Indian Commerce Clause); *id.* art. II, § 2, cl. 2 (Treaty Clause); *see also id.* art. VI, cl. 2 (Supremacy Clause); *id.* art. IV, § 3, cl. 2 (Territory Clause); *id.* art. I, § 2, cl. 3 (Indians Not Taxed Clause). Further, the U.S. Supreme Court since its early days has consistently acknowledged Tribal Nations' inherent sovereignty. *See, e.g.*, *Haaland v. Brackeen*, 599 U.S. 255, 308 (2023) (Gorsuch, J., concurring) (explaining that Tribal Nations "existed as 'self-governing sovereign political communities'" that "d[id] not 'cease to be sovereign and independent'" after colonization (first quoting *United States v. Wheeler*, 435 U.S. 313, 322–23 (1978), then quoting *Worcester v. Georgia*, 31 U.S. 515, 561 (1832)).

Inherent to Tribal Nations' sovereign status is the right to land and resources. Tribal Nations' traditional land base includes all two-billion acres in what is today

referred to as the United States, and the early U.S. Supreme Court acknowledged Tribal Nations retained territorial and aboriginal rights after the arrival of colonizing forces. *See Worcester*, 31 U.S. at 544; *Johnson v. M'Intosh*, 21 U.S. 543, 574 (1823); *Oneida Indian Nation of N.Y. v. Oneida Cnty.*, 414 U.S. 661, 667 (1974). Despite these retained rights, Tribal landholdings today amount to just 4.4% of the original two-billion acres over which Tribal Nations once governed. This means that the United States has taken for itself nearly all of Tribal Nations' original territory, and it now enjoys the immense value of those lands and the resources they contain.

Through this taking by war, treaty-making, and other coercive means, the United States incurred a debt to Tribal Nations that it owes as long as it holds their lands and resources. This debt manifests in trust and treaty obligations to provide services and funding to Tribal Nations and Tribal communities. *See, e.g.*, *Morton v. Mancari*, 417 U.S. 535, 551–52 (1974); *Seminole Nation v. United States*, 316 U.S. 286, 296–97 (1942) ("In carrying out its treaty obligations with the Indian tribes the Government . . . has charged itself with moral obligations of the highest responsibility and trust."). And the United States is empowered to deliver on its obligations pursuant to the federal government's Indian affairs power set forth in the U.S. Constitution. *See, e.g.*, *Cherokee Nation v. Georgia*, 30 U.S. 1, 17–19 (1831); *Brackeen*, 599 U.S. at 275; *United States v. Antelope*, 430 U.S. 641, 647 n.8 (1977).

B. Treaties and other sources of federal law acknowledge the United States' debt-based trust and treaty obligations to provide services and associated funding to Indian Country

The United States recognizes "judicially enforceable duties" to Tribal Nations. *Arizona v. Navajo Nation*, 599 U.S. 555, 564 (2023) (citing *United States v. Jicarilla Apache Nation*, 564 U.S. 162, 177 (2011)). The currently prevailing theory of federal Indian law holds that these obligations are enforceable in court where the United States "expressly accepts those responsibilities." *Id.* (quoting *Jicarilla*, 564 U.S. at 177).[4] Express acceptance is evidenced by "'specific rights-creating or duty-imposing' language in a treaty, statute, or regulation." *Id.* (quoting *United States v. Navajo Nation*, 537 U.S. 488, 506 (2003)).[5] Further, evidence of express acceptance may be drawn from multiple sources of substantive law "when read in conjunction." *Rosebud Sioux Tribe v. United States*, 9 F.4th 1018, 1023, 1025 (8th Cir. 2021) (finding a treaty read together with related statutes, evidenced acceptance of an enforceable duty to provide competent health care to a Tribal Nation and its citizens).

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[4] Through this rule, the United States has self-servingly developed a body of federal Indian law that limits when and how it may be held accountable for the debt it incurred by taking Tribal Nations' lands and resources. Because trust and treaty obligations arise from that debt, a more just system would recognize such obligations as something more like rent payments, fully enforceable in a court of law.

[5] The United States also owes common law trust obligations to a Tribal entity when it holds a corpus, meaning a financial or other resource. *United States v. White Mountain Apache Tribe*, 537 U.S. 465, 475 (2003). This most often arises in cases where plaintiffs are seeking damages, rather than injunctive relief.

Countless treaties, statutes, and other pronouncements recognize the United States' trust and treaty obligations to provide precisely the types of services and associated funding that the Funding Freeze Directive disrupted. *Cf.* U.S. Comm'n on Civ. Rts., *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* 1 (2003) ("The United States' authority and obligation to provide programs and services to Native Americans have long been established in laws, treaties, jurisprudence, and the customary practices of nations.").

Through treaties, federal negotiators in their efforts to secure peace and gain control of vast tracts of Tribal land agreed to obligate the United States to deliver all manner of goods and services to Tribal Nation signatories, including support for education, housing, health care, agriculture, economic development, and more. *See, e.g.*, Treaty with the Seminole, Mar. 21, 1866, 14 Stat. 755 (education and agriculture); Treaty with the Ponca, Mar. 12, 1858, 12 Stat. 997 (housing, education, and agriculture); Treaty with the Rogue River, Nov. 15, 1854, 10 Stat. 1119 (health care, education, and agriculture); *see also* Raymond Cross, *American Indian Education: The Terror of History and the Nation's Debt to the Indian Peoples*, 21 U. Ark. Little Rock L. Rev. 941, 950 (1999) ("Over 110 Indian treaties stipulated that the federal government shall provide an education to the members of the signatory tribes."); Virginia Davis, *A Discovery of Sorts: Reexamining the Origins of the Federal Indian Housing Obligation*, 18 Harv. BlackLetter L.J. 211, 217 (2002)

("[R]eports from treaty negotiations confirm that housing promises sometimes played an integral role in the negotiation process even when housing was not explicitly incorporated into the treaty."). Thus, agents of the United States recognized in treaty negotiations that these obligations—these payments on debt—extended to providing services and associated funding to Tribal Nations and Tribal communities.

In statutes and other federal pronouncements, the United States has further acknowledged its trust and treaty obligations to provide services and associated funding to Indian Country, and it has authorized action to deliver on those obligations. For example, the Snyder Act of 1921 authorized appropriations "for the benefit, care, and assistance of the Indians throughout the United States" in education, health care, infrastructure, law enforcement, and a variety of other purposes. 42 Stat. 208 (1921) (codified as amended at 25 U.S.C. § 13). Legislative history reveals that Congress understood it was authorizing these expenditures pursuant to the "obligations which the Government has toward" Indian Country. 61 Cong. Rec. 4689 (1921) (statement of Rep. Carl Trumbull Hayden reading a letter from Dr. Harvey W. Wiley); *see also id.* at 4660 (statement of Rep. M. Clyde Kelly) (noting, in outdated and paternalistic terms, that in forcing Tribal Nations off Tribal lands "[t]he Government assumed the guardianship of the persons of the Indians").[6]

[6] https://www.congress.gov/bound-congressional-record/1921/08/04/house-section.

Congress later enacted the Indian Self-Determination and Education Assistance Act of 1975 to promote "the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole." 25 U.S.C. § 5302. In the Tribal Law and Order Act of 2010, Congress similarly recognized that "the United States has distinct legal, treaty, and trust obligations to provide for the public safety of Indian country." Pub. L. No. 111-211, § 202, 124 Stat. 2258 (2010). Dozens of other federal statutes further recognize and carry out the federal government's trust and treaty obligations to provide services and associated funding to Indian Country. *E.g.*, 25 U.S.C. § 1451 (financing); *id.* § 1802 (higher education); *id.* § 1902 (child welfare); *id.* § 2501(b) (schools); *id.* § 2702(1) (gaming); *id.* § 3104(a) (forestry); *id.* § 3502(a)(1) (energy); *id.* § 3601(2)–(7) (Tribal courts); *id.* § 3702(1), (4) (agriculture); *id.* § 4101(7) (housing); *id.* § 4301 (economic development); *see also Cohen's Handbook of Federal Indian Law* § 6.04[3][a] (Nell Jessup Newton & Kevin K. Washburn, eds., 2024) ("Nearly every piece of modern legislation dealing with Indian tribes contains a statement reaffirming the trust relationship between tribes and the federal government.").

In these and other sources of law, the United States bound itself to carry out its debt-based obligations to deliver services and associated funding to Indian Country.

II. THE PRELIMINARY INJUNCTION IS NECESSARY TO UPHOLD TRUST AND TREATY OBLIGATIONS AND PREVENT IMMINENT AND DISPROPORTIONATE HARM TO TRIBAL NATIONS AND TRIBAL COMMUNITIES

As Plaintiffs have thoroughly briefed, a preliminary injunction is warranted where a plaintiff can establish: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief; (3) that the balance of the equities tips in their favor; and (4) that the injunction is in the public interest. *Singh v. Carter*, 185 F. Supp. 3d 11, 16 (D.C. Cir. 2016). Where, as here, the federal government is the nonmoving party, the balance of equities and public interest factors "merge." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Plaintiffs briefed these factors and met this standard in full. *Amici* write to inform the Court of the unique harms at stake for Indian Country, which compound the many compelling reasons the preliminary injunction is warranted and should be affirmed in full.

A. The Funding Freeze Directive violates the United States' trust and treaty obligations and leads to imminent and outsized harm to Indian Country

The Funding Freeze Directive uniquely and disproportionately impacted Indian Country. In taking Tribal Nations' lands and resources, the United States not only generated trust and treaty obligations for itself, but it also devastated Tribal communities. The effects of this taking and the colonialist and assimilationist policies implemented alongside it reverberate throughout Indian Country today. The

United States has never fully delivered on its trust and treaty obligations, leaving Tribal Nations reliant on under-resourced federal programs as Tribal Nations and Tribal communities work to rebuild.

If the Funding Freeze Directive—or a similar policy—were to go into effect, the cumulative injustices of the government's taking of Tribal lands and resources, broken promises, and intrusions on Tribal sovereignty would quickly lead to crisis. A Tribal organization declaration submitted by Plaintiffs with their district court briefing illustrates the type of harm Tribal communities face. Ex. E, ECF No. 24-5 ¶¶ 14–26 (describing how, even after the stay on the Funding Freeze Directive had taken effect, member Tribes were locked out of funding portals administered by the Department of Justice, the Department of Housing, and the Administration for Children and Families and faced the need to furlough or layoff staff and disrupt critical services).

Overall, more than $24.5 billion for Indian Country is at stake, all of which is delivered in furtherance of the United States' trust and treaty obligations. *See* Robert Maxim & Glencora Haskins, *A Federal Grant Freeze Could Disrupt Over $24 Billion to Native American Communities and Undermine U.S. Obligations to Tribes*, Brookings Inst. (July 14, 2025).[7] This includes more than $8.5 billion in funding to

[7] https://www.brookings.edu/articles/a-federal-grant-freeze-could-disrupt-over-24-billion-to-native-american-communities-and-undermine-us-obligations-to-tribes.

the Department of Health and Human Services, which administers funding for child care and other critical health and welfare services for Indian Country; more than $4.5 billion to the Department of the Interior, which administers funds for economic development, education, and self-governance for Indian Country; more than $1.2 billion for the Department of Housing and Urban Development, which administers funds for housing programs in Indian Country; and nearly $1 billion to the Department of Justice, which administers funding for public safety in Indian Country, including programs to curtail violence against women and children. *Id.* (breaking down, by department, the amount of funding for Indian Country put at risk by a policy like the Funding Freeze Directive); Office of Mgmt. & Budget, *FY 2025 Native American Funding Crosscut* (Nov. 2024)[8] (describing each department's programs that benefit Native Americans and Alaska Natives). Even temporary disruptions to a *fraction* of these funds would lead to crisis for Tribal Nations and Tribal communities.

When one considers the United States' longstanding neglect of its duties to Indian Country, the consequences are even more severe. By the government's own accounting, the United States has persistently fallen far short of meeting its promises. *See* U.S. Comm'n on Civ. Rts., *supra* at ix (explaining that federal spending fails to "compensate for a decline in spending power" or "overcome a long and sad history

[8] https://www.doi.gov/media/document/fy-2025-native-american-funding-crosscut.

of neglect and discrimination"); U.S. Comm'n on Civ. Rts., *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* 4 (2018), (finding that "[f]ederal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide"); Off. of Health Pol'y, Dep't of Health & Human Servs., *How Increased Funding Can Advance the Mission of the Indian Health Service to Improve Health Outcomes for American Indians and Alaska Natives* 15 (2022) (citing estimate that "IHS appropriations fund approximately half of the total funding that would be required to fully address existing health care resource needs");[9] *see also* Bureau Indian Affs., *Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2021* 1 (2024) (providing funding levels demonstrating that Indian Country public safety and justice programs are funded at less than 13% of demonstrated need).[10]

Further, Tribal Nations face uniquely severe and unjust hurdles to generating revenue on their own—hurdles created by the United States' abrogation of Tribal Nations' inherent sovereign authorities, and hurdles that leave our communities especially vulnerable to any reduction or pause in federal funding. Far from

[9] https://aspe.hhs.gov/sites/default/files/documents/e7b3d02affdda1949c215f57b65b5541/aspe-ihs-funding-disparities-report.pdf.
[10] https://www.bia.gov/sites/default/files/media_document/2021_tloa_report_final_508_compliant.pdf.

possessing any desire to be dependent on federal funding, in many instances Tribal Nations do not have the *freedom* to choose otherwise, because—stolen land and broken promises aside—the United States has usurped the inherent rights and authorities Tribal Nations need to exercise to provide for our communities themselves. For example, though Tribal Nations are sovereign governments, they are subject to strict federal oversight and regulation, including in the development of the natural resources they retain. And Tribal Nations face practical limitations in their own funding authority, including convoluted legal precedent that siphons revenue away from Tribal lands and prevents Tribal Nations from collecting taxes like other governmental entities do.

As a result of these and other injustices, a disproportionate share of our people face challenging socioeconomic circumstances and persistent health disparities, conditions which Tribal Nations and Native-serving organizations often fight with two hands tied behind their backs. Federal funding flows, directly and indirectly, to Indian Country through a vast array of federal agencies and programs and a variety of means. Tribal Nations and Native-serving organizations make creative use of every federal dollar to provide for our communities not only out of efficiency but because underfunding and outsized demand means Tribal Nations *have to*. Every one of these federal dollars is delivered in furtherance of the United States' trust and treaty obligations, and any disruption will have a noticeable and damaging impact.

B. Preventing these harms serves the public interest

As the district court said in deciding to order injunctive relief, "the public's interest in not having trillions of dollars arbitrarily frozen cannot be overstated." J.A. 351. This is just as true for Indian Country as it is for Plaintiffs. But another factor unique to Indian Country tips the balance of equities even further in favor of injunctive relief: preventing the violation of the United States' binding trust and treaty obligations.

Tribal Nations have deep reliance interests in the continuity of federal funding, largely due to the system the United States itself created with the taking of Tribal lands and resources and its self-serving paternalism. Tribal Nations do their best to play by the colonizer's rules—and we ask that the colonizer, at the very least, do the same.

CONCLUSION

The Funding Freeze Directive not only breaches the United States' trust and treaty obligations, but it also threatens the well-being of Tribal communities. Native lives are not a bargaining chip, and the uniquely severe harms to Indian Country outlined herein further shift the public interest in favor of injunctive relief. For these and all the reasons stated above, the full scope of the injunction must be upheld.

DATED December 24, 2025.

s/ Allison A. Neswood

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CERTIFICATE OF COMPLIANCE

This *amicus* brief complies with the type-volume limit of Fed. R. of App. P. 29(a)(5), 32(a)(5), 32(a)(6) because it contains 4213 words and complies with the typeface and type-style requirements because it was prepared using Microsoft Word in Times New Roman 14-point font, a proportionally spaced typeface.

s/ Allison A. Neswood
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CERTIFICATE OF SERVICE

I certify that the foregoing was served on all counsel of record via the Court's CM/ECF system.

s/ Allison A. Neswood
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