

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STATE OF WASHINGTON, et al.,

Plaintiff,

v.

FEDERAL EMERGENCY MANAGEMENT
AGENCY, et al.,

Defendants.

CIVIL ACTION
NO. 1:25-cv-12006-RGS

**PLAINTIFF STATES' MOTION TO ENFORCE THE COURT'S
SUMMARY JUDGMENT ORDER**

On December 11, 2025, the Court granted Plaintiff States'¹ Motion for Summary Judgment in this dispute over the unlawful termination of the Building Resilient Infrastructure and Communities (BRIC) program by the Federal Emergency Management Agency (FEMA). ECF Nos. 129-130. The Court vacated and set aside the termination of the BRIC program and permanently enjoined Defendants² from implementing the Hamilton Memo or the April 4 Press

¹ Plaintiffs are the State of Washington; the Commonwealth of Massachusetts; the State of Arizona; the State of California; the State of Colorado; the State of Connecticut; the State of Delaware; the District of Columbia; the State of Illinois; Office of the Governor, *ex rel.* Andy Beshear, in his official capacity as Governor of the Commonwealth of Kentucky; the State of Maine; the State of Maryland; the State of Michigan; the State of Minnesota; the State of New Jersey; the State of New Mexico; the State of New York; the State of North Carolina; the State of Oregon; Josh Shapiro, in his official capacity as Governor of the Commonwealth of Pennsylvania; the State of Rhode Island; the State of Vermont; and the State of Wisconsin, and their subdivisions and instrumentalities.

² “Defendants” are FEMA, Karen Evans in her official capacity as acting FEMA Administrator under the title “Senior Official Performing the Duties of the Administrator,” the Department of Homeland Security (DHS), Kristi Noem in her official capacity as the Secretary of Homeland Security, and the United States.

Release without Congressional authorization and approval.³ ECF No. 130 (Order) ¶¶ 2-3. This Court also ordered Defendants to “promptly take all steps necessary to reverse the termination[.]” *Id.* ¶ 3(c).

Over two months have passed and Defendants have offered no indication to Plaintiff States, the public, or FEMA’s own regional offices that they have complied with the Order. Nothing has changed since the Order: Defendants have not re-issued the Fiscal Year 2024 BRIC Notice of Funding Opportunity, awarded any BRIC projects, or (to Plaintiff States’ knowledge) issued any requests for information for selected BRIC projects or decided any new period of performance extensions. Many of FEMA’s regional offices seem to lack information about whether and when Defendants will resume the BRIC program, while others have indicated to Plaintiff States that Defendants are taking a “wait and see” approach. Despite Plaintiffs’ inquiries, Defendants have not identified any concrete steps that they have taken to implement the Order and instead merely represented that they are “still in the process of connecting with leadership about how BRIC will operate and on what timelines.” Declaration of Amy Laura Cahn, Ex. 1.

FEMA’s noncompliance only exacerbates the harms identified by the Court in the Order: Defendants continue to perpetuate a substantial reduction in FEMA’s mitigation responsibilities and deny Plaintiff States the ability to access funding to which they are statutorily entitled. The uncertainty and ongoing delay continue to “threaten the very existence of the States’ projects”, leaving state emergency management agencies and local municipalities scrambling to fill funding gaps and preserve contracts and partnerships. ECF No. 129 at 18. And ultimately, Plaintiff States

³ The “Hamilton Memo” is the memorandum issued by Cameron Hamilton on April 2, 2025, available at ECF No. 96 at 45-46. The “April 4 Press Release” is the press release issued by FEMA on April 4, 2025, available at ECF No. 96 at 55.

continue to face the loss of an urgently needed program “designed to protect against natural disasters and save lives.” *Id.* at 17-18.

Plaintiff States ask the Court to enforce its Order by issuing the Proposed Order attached to this motion as Exhibit 1. This Court should order Defendants to reverse the Hamilton Memo and the April 4 Press Release, to communicate the reversal to all relevant stakeholders, and to issue a Fiscal Year 2024 Notice of Funding Opportunity for the BRIC program in compliance with their statutory obligation to make BRIC funds available. *See* Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, 1387 (2021) and 42 U.S.C. § 5133(f). Defendants should also be ordered to inform each Plaintiff State as to the status of all BRIC projects impacted by the BRIC termination and what steps are required to move the projects forward. Defendants should be required to file status reports with the Court explaining the steps they have taken to comply with the Order and reverse the Hamilton Memo’s directives and identifying any remaining steps required for compliance and when Defendants will take them. Compliance with this Order is not optional and enforcement is required.

For the reasons explained in the accompanying memorandum, Plaintiff States respectfully request that this Court enter the Proposed Order attached to this Motion as Exhibit 1.

DATED this 17th day of February 2026.

Respectfully submitted,

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forthcoming*

CERTIFICATE OF SERVICE

I certify that this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF).

/s/ Amy Laura Cahn

Amy Laura Cahn

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I certify that beginning on January 15, 2026, and ending on February 10, 2026, I discussed the foregoing motion with counsel for the Defendants, Nicole O'Connor, via email in a good faith effort to narrow the issues posed by this motion.

/s/ Hannah C. Vail
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