No. 26A203

In the Supreme Court of the United States

NATIONAL PARK SERVICE, *et al.*,

Applicants,

v.

NATIONAL TRUST FOR HISTORIC PRESERVATION IN THE UNITED STATES,

Respondent.

On Application for a Stay of the Order Issued by the
United States District Court for the
District of Columbia, No. 1:25-cv-04316

BRIEF OF *AMICI CURIAE* CAMPAIGN LEGAL CENTER AND CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON IN SUPPORT OF RESPONDENT

Nikhel S. Sus
Christina Wentworth
CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON
P.O. Box 4596
Washington, DC 20044

Attorneys for Amicus Curiae *Citizens for Responsibility and Ethics in Washington*

Renata M. O'Donnell
Counsel of Record
Daniel S. Lenz
Robert Brent Ferguson
CAMPAIGN LEGAL CENTER
1101 14th St. NW, Suite 400
Washington, DC 20005
202-736-2200
rodonnell@campaignlegalcenter.org

Attorneys for Amicus Curiae *Campaign Legal Center*

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INTERESTS OF *AMICI CURIAE*[1]

Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization dedicated to solving the wide range of challenges facing American democracy. CLC works to enforce and reform ethical guidelines and laws to ensure public trust and accountability. CLC engages with the public and with civic leaders to ensure that potential conflicts of interest and their appearance are avoided, clear ethical guidelines are established and followed, and that public confidence in government is well-earned.

Citizens for Responsibility and Ethics in Washington (CREW) is a nonprofit, nonpartisan organization dedicated to promoting integrity, transparency, and accountability in government. CREW seeks to protect the rights of citizens to be informed about the activities of government officials and to ensure the integrity of those officials.

Amici submit this brief based on their expertise in ethics and corruption in government institutions. *Amici* explain that the plain text of the statutes at issue in this case embody the constitutional separation-of-powers principle that Congress, not the Executive, makes decisions about appropriations.

[1] No counsel for a party authored this brief in whole or in part, and no person other than CLC, CREW, or its counsel contributed money that was intended to fund preparing or submitting this brief.

SUMMARY OF ARGUMENT

To maintain a separation of powers between Congress and the Executive, the Constitution vests the authority to fund government projects solely in Congress. U.S. Const. art. I, § 9, cl. 7. The text of the funding statutes at issue reflects a basic separation-of-powers principle: Congress, not the Executive, controls the country's purse strings. This is a check against both Executive extravagance and the risk of corrupting influence or its appearance.

Although *ultra vires* claims must meet a "rigorous" standard, the departure from congressional mandates in this case sharply contravenes Congress's appropriations power such that the American people's most direct representatives have no voice in the transformation of one of the nation's iconic landmarks. Congress has neither appropriated funds for the Ballroom nor approved the use of private donations toward that end.[2] Therefore, this Court must ensure that Applicants' funding scheme does not establish a model for end-runs on other congressional appropriations. The separation-of-powers harm, erosion of public trust, and risk of corruption or its appearance, bears on the consideration of the "public interest" and "balance of equities" factors of the *Winter* standard. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 26 (2008); *see Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010). The Court of Appeals relied, in part, on this argument in its decision, explaining that

[2] The Senate considered and rejected funding aspects of the Ballroom because "the votes [were] not there." *See* Mary Clare Jalonick, Kevin Freking & Joey Cappelletti, *Republicans expected to abandon $1B security proposal for White House and Trump's Ballroom*, ABC News (May 21, 2026), https://perma.cc/G5WP-XPXW.

"[t]he 'power of the purse,' after all, is one of Congress's crucial means of leverage over the Executive" and provides a "means of 'preventing fraud and corruption'" or its appearance, and that "Congress would be reluctant to relinquish its oversight and control over the Executive by allowing the President to use private donations to remake the White House." *Nat'l Tr. for Historic Pres. in the U.S. v. Nat'l Park Serv.*, No. 26-5123, 2026 WL 2276494, at *31 (D.C. Cir. Aug. 7, 2026) (quoting *Off. of Pers. Mgmt. v. Richmond*, 496 U.S. 414, 427 (1990)). These structural concerns are similarly proper considerations in this Court's equitable discretion to deny the application to stay the district court's "carefully tailored" preliminary injunction. *Id.* at *44.

ARGUMENT

Congress, not the Executive, holds the nation's purse strings. Congressional control over the public fisc is a check on the Executive, promotes democratic input, and ensures that public projects are funded in a transparent and responsible manner. The purpose and tradition of Congress's spending power demonstrate why Applicants' plan to fund the Ballroom with private donations cannot stand.

I. Congress's appropriations authority constrains the Executive.

Applicants do not have authority to sidestep the congressional appropriations process by using private funds to build the Ballroom. Applicants may proceed with Ballroom construction as they originally planned only if Congress appropriates funds for that purpose. History, precedent, and practice confirm as much.

The Appropriations Clause of the Constitution commands, "[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

U.S. Const. art. I, § 9, cl. 7. Congress's "power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people." The Federalist No. 58 (James Madison). The Framers' decision to commit the spending power to Congress was built on the history of the British Parliament wresting control of the public fisc from the monarchy. *See Consumer Fin. Prot. Bureau v. Cmty. Fin. Servs. Ass'n*, 601 U.S. 416, 427-31 (2024) (recounting this history). This included the gradual shift from a system in which the monarchy exercised "financial independence" with "little parliamentary interference"—raising and spending revenues at will—to one where Parliament controlled revenue and appropriations and successfully limited the monarchy's ability to defy that power. *Id.* at 453-57 (Alito, J., dissenting). Similar struggles over appropriations between royal governors and the colonies occurred before the Revolution. *Id.* at 460.

The Appropriations Clause reflects the Framers' judgment "that congress should possess the power to decide, how and when any money should be applied for [public] purposes." 3 Joseph Story, Commentaries § 1342. Under the Appropriations Clause, Congress has "'the right to specify how appropriated moneys shall be spent,' which takes on added significance in a separation-of-powers regime." Kate Stith, *Congress' Power of the Purse*, 97 Yale L.J. 1343, 1353-54 (1988). As Alexander Hamilton explained, "no money can be expended, but for an *object*, to an *extent*, and *out of a fund*, which the laws have prescribed." *Id.* at 1354 (internal citation omitted).

This structure ensures that "there will be a legislative authorization for all activity undertaken in the name of the United States." *Id.* Housing the appropriations power within the democratically elected 535-person Congress, rather than the singular Executive, mitigates against "[t]he dangers of corruption, conflict-of-interest, favoritism, and undue discrimination in government administration." *See id.* at 1376-77. The Appropriations Clause thus functions as "a most useful and salutary check upon profusion and extravagance, as well as upon corrupt influence and public peculation." 3 Joseph Story, Commentaries § 1342. The "obvious practical consideration" underlying the Appropriations Clause "of preventing fraud and corruption" is as salient now as it was at the Constitution's ratification. *Off. of Pers. Mgmt.*, 496 U.S. at 427.

The Constitution's budget transparency requirement likewise protects against corruption. The Statement and Account Clause, which immediately follows the Appropriations Clause, reflects a constitutional commitment to transparency and provides that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." U.S. Const. art. I, § 9, cl. 7. President Jefferson understood that clear reporting of government spending was essential to ensure "every member of Congress, and every man of any mind in the Union, should be able to comprehend [the federal budget] to investigate abuses, and consequently to control them." *See* Katherine Clark Harris, *The Statement and Account Clause: A Forgotten Constitutional Mandate for Federal Reporting*, 32 Yale L. & Pol'y Rev. 505, 516 (2014) (internal citation omitted). Both the Appropriations

Clause and the Statement and Account Clause fit within the Constitution's structural commitment to preventing "improper dependence." *See generally* Zephyr Teachout, *The Anti-Corruption Principle*, 94 Cornell L. Rev. 341 (2009). The Framers intended for the political branches to depend on the people alone, viewing there to be "corruption" whenever politicians depended on interests other than those of the voters. *See* Lawrence Lessig, *What an Originalist Would Understand "Corruption" to Mean*, 102 Calif. L. Rev. 1, 7-8 (2014).

This Court has long recognized that the Appropriations Clause "was intended as a restriction upon the disbursing authority of the Executive." *Cincinnati Soap Co. v. United States*, 301 U.S. 308, 321 (1937); *Reeside v. Walker*, 52 U.S. (11 How.) 272, 291 (1850) ("However much money may be in the Treasury at any one time, not a dollar of it can be used in the payment of any thing not thus previously sanctioned. Any other course would give to the fiscal officers a most dangerous discretion."). The Appropriations Clause therefore represents "the principle of legislative supremacy over fiscal matters" that "engendered little debate" at the Constitutional Convention. *Cmty. Fin. Servs. Ass'n*, 601 U.S. at 431.

Congress's historical exercise of its appropriations power confirms its primacy over spending. *See id.* at 432 ("The practice of the First Congress also illustrates the source-and-purpose understanding of appropriations."), *id.* at 460-61 (Alito, J., dissenting) (explaining that early Congresses "clearly contemplated that the money would be devoted toward particular purposes"); *See Harrington v. Bush*, 553 F.2d 190, 194-95 (D.C. Cir. 1977) ("The Congressionally chosen method of implementing the requirements of Article I, section 9, clause 7 is to be found in various statutory provisions."). For example, Congress safeguards its appropriations authority by passing permanent, government-wide restrictions on the use of funds, as demonstrated by the following:

- The Purpose Statute requires that appropriations "shall be applied only to the objects for which the appropriations were made." 31 U.S.C. § 1301(a).
- The transfer statutes prevent transferring funds between agencies unless authorized by law and limit the use of transferred funds to the "purpose for which the appropriation was originally available." 31 U.S.C. §§ 1531(a), 1532.
- The Miscellaneous Receipts Act requires any official receiving "money for the Government from any source" to immediately deposit it within the U.S. Treasury to ensure accountability, including when gifts are made to the United States, absent specific statutory authority. 31 U.S.C. § 3302(b).
- The Impoundment Control Act requires the President to follow certain procedures before temporarily withholding funds. 2 U.S.C. §§ 681-688.
- The Antideficiency Act prohibits spending more than Congress appropriates. 31 U.S.C. §§ 1341-1342, 1349-1350.

Congress also protects its plenary authority over government spending by passing annual appropriations acts that establish additional agency-specific and government-wide purpose, time, and amount limitations on the use of funds. *See* Gov't Accountability Off., *Principles of Federal Appropriations Law* 3-9 (hereinafter GAO Redbook) (4th ed. 2017). As the Government Accountability Office explains in its treatise on appropriations law, "it is for Congress to determine the purposes for which an appropriation may be used," and disregarding the purpose of an appropriation "would render congressional control largely meaningless." *See* GAO Redbook, at 3-10 (4th ed. 2017).

II. Applicants' actions ignore separation-of-powers principles that advance democratic accountability and prevent corruption.

Applicants argue that a complicated set of transactions under multiple statutes authorizes the use of private donations to construct a massive Ballroom. Their reading disregards Congress's statutory instructions, flouts separation-of-powers principles, and opens the door to *quid pro quo* corruption.

Under Applicants' proffered plan, the Trust for the National Mall, a tax-exempt nonprofit, accepts private donations from individuals and corporations,[3] and then donates the collected funds to the Secretary of the Interior, who may accept donations to the National Park Service (NPS) "for the purposes of the [Park] System." *See* 54 U.S.C. § 101101(2); Appl. for Stay of Inj. at 11, 28-29 (Br.). The funds are held in the NPS Trust Fund, *see* 31 U.S.C. § 1321(a)(17), and "appropriated to be disbursed in compliance with the terms of the trust," *see* 31 U.S.C. § 1321(b)(1). Finally, under the Economy Act, NPS contracts with the Office of the Executive Residence (EXR), *see* 31 U.S.C. § 1535, which spends the collected funds on the Ballroom project, *see* Br.

[3] *See* Peter Nicholas & Megan Brand, *How a nonprofit went from cherry trees and pickleball to handling the money for Trump's ballroom*, NBC News (Oct. 31, 2025), https://perma.cc/39SH-6NUE.

at 30. According to Applicants, "[t]hough NPS donations fund the Project, EXR is in charge." Br. at 11.

Applicants' expansive reading of these statutes does not pass muster.

A. Section 105(d) does not authorize Applicants' actions.

Applicants' principal argument on the merits rests on the erroneous premise that 3 U.S.C. § 105(d) (Section 105(d)) gives EXR authority to construct the Ballroom. But Section 105(d) merely authorizes Congress to appropriate funds for "the care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House." 3 U.S.C. § 105(d)(1). It provides no funding to EXR; rather, this authorization is "basically a directive to Congress itself, which Congress is free to follow or alter (up or down) in the subsequent appropriation act." *See* GAO Redbook, at 2-56 (4th ed. 2016).

Relevant here, in Fiscal Year (FY) 2024 Congress appropriated $2.475 million under Section 105(d) for an even narrower purpose, namely, "required maintenance, resolution of safety and health issues, and continued preventive maintenance." *See* Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, 138 Stat. 460, 532 (2024) ("White House Repair and Restoration" account); *see also* GAO Redbook, at 2-65 (4th ed. 2016) ("[A]n appropriation made for specific purposes is not available for related but more extended purposes contained in the authorization act but not included in the appropriation."). Since President Trump took office, Congress has twice reinstated the same funding level and purpose limits for the Section 105(d) appropriation. *See Nat'l Tr. for Historic Pres. in the U.S.*, 2026 WL 2276494, at *6 (citing Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, 138 Stat. 460, 532; Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, §§ 1101(a)(5), 1102, 139 Stat. 9, 11-12; Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, 140 Stat. 173, 451). This restrictive language does not confer authority for the President to "demolish and replace [an] entire structure with whatever new structure he prefers." *Id.* at *35.

Congress's decision to consistently narrow the availability of EXR's funding demonstrates how the legislative branch exercises its core power of the purse: by specifying the *purpose* and *amount* of provided funds consistent with the original public meaning of the term "appropriation" as "a law authorizing the expenditure of *particular funds* for *specified ends*." *See Cmty. Fin. Servs. Ass'n*, 601 U.S. at 427 (emphases added) (citing Founding-era dictionaries describing the "purpose" or "particular use" restrictions inhering in the term "appropriation"). Adhering to congressional judgments in the language of appropriations statutes protects essential constitutional values.

Moreover, even if Congress appropriated funds for all purposes covered by Section 105(d), the language used in the authorizing legislation—replete with terms connoting minor repairs—cannot bear Applicants' preferred meaning. *See* Br. at 22-26. Neither razing an entire wing of the White House, nor reconstructing it with a 90,000 square-foot Ballroom (and related annex) at a cost of hundreds of millions of dollars qualifies as a mere "alteration" or "improvement" envisioned by the statute.[4] *See* 3 U.S.C. § 105(d); *Nat'l Tr. for Historic Pres. in the U.S.*, 2026 WL 2276494, at *33-35. The plain text of the statute confirms as much, and Congress does not "hide elephants" in statutory "mouseholes," *Whitman v. Am. Trucking Assn's*, 531 U.S. 457, 468 (2001), especially where, as here, "the purported delegation involves the core congressional power of the purse," *Learning Res., Inc. v. Trump*, 607 U.S. 229, 243 (2026) (opinion of Roberts, C.J.). "[I]f Congress were to relinquish that [power] to another branch, a reasonable interpreter would expect it to do so clearly." *Id.* (citation modified).

Applicants' argument that Section 105(d) authorizes private funding schemes that operate without congressional authorization, oversight, or control is contrary to constitutional tradition. "Congress's power of the purse is the single feature of our system that most effectively guarantees an ongoing political constraint on the president's authority to set policy unilaterally." *See* Zachary S. Price, *Funding Restrictions and Separation of Powers*, 71 Vand. L. Rev. 357, 369 (2018). Congress may enforce constraints by denying the President's budgetary requests, limiting funds to a specified purpose different than the President's policy aims, or significantly reducing an agency's appropriation.[5] Enabling the President to evade these controls

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[4] *See* Jonathan O'Connell & Sarah Blaskey, *Trump administration set to spend at least $900 million on White House construction*, Wash. Post (Aug. 12, 2026), https://perma.cc/WXY4-B399.

[5] *See, e.g.*, Erin Schumaker, *Beating cancer used to be bipartisan. What happened?*, Politico (Apr. 29, 2024), https://www.politico.com/news/2024/04/29/congress-is-killing-bidens-cancer-moonshot-00154718 (describing Congress's decision not to fund

by using private funds for a transformative Ballroom costing hundreds of millions of dollars would undercut both finely wrought legislative compromises and Congress's power under the Constitution.

B. Respecting Section 105(d)'s limits preserves the separation of powers.

Congress's process of authorizing and appropriating funds promotes democratic accountability and consensus-building, as the Framers intended. *See supra* Part I. Both the authorizing language in Section 105(d) and the narrower funding for White House repair and maintenance in the FY24 – FY26 appropriations laws reflect compromises, which emerged from negotiations between members representing diverse constituencies in both Houses of Congress. Increasingly, appropriations are passed in "omnibus" form, in which the enactment depends on combining the priorities of many members of Congress into a single package. *See* Matthew B. Lawrence, Eloise Pasachoff & Zachary S. Price, *Appropriations Presidentialism*, 114 Geo. L.J. Online 1, 16-17 (2025). The bicameralism and presentment requirements of Article I, Section 7 ensure that funding legislation reflects the judgment of each of the relevant constitutional actors. The Framers

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President Biden's request under the Cures Act); David Nather, *DOA budget may have life after death*, Politico (Mar. 4, 2014), https://www.politico.com/story/2014/03/barack-obama-budget-congress-104252 (describing the unlikelihood of many of President Obama's signature budget priorities becoming law); *see* U.S. Gov't Accountability Off., GAO B-330935, U.S. Government Accountability Office—Unavailability of Appropriated Funds to Subsidize Employees' Long-Distance Home-to-Work Travel 3 (2019), *reconsidered on other grounds*, GAO B-330935.2, Reconsideration: Use of Appropriated Funds to Subsidize Employees' Long-Distance Home-to-Work Travel (2019).

designed this process, with its many veto gates, to "divide and disperse power in order to protect liberty." *See Immigr. and Naturalization Serv. v. Chadha*, 462 U.S. 919, 950 (1983).

If the President can distort a specific appropriation's purpose (here, "required maintenance, resolution of safety and health issues, and continued preventive maintenance") or ignore the specific amount provided (here, $2.475 million) through private funding, then these delicate, intra- and interbranch negotiations, and Congress's corresponding ability to constrain presidential expenditures, breaks down. The President could simply ignore congressional intent and corral private interests to sidestep Congress. Such an arrangement would short-circuit the Framers' carefully constructed separation of powers and do damage to the Constitution.[6]

C. The NPS gift statutes and Economy Act advance separation-of-powers principles by preventing the President from using private donations for unauthorized projects.

Congress also effectuates its power of the purse by prescribing whether, when, and for what purpose an agency may accept funds outside the annual appropriations process. As relevant here, Congress provided NPS a narrowly circumscribed ability to accept and use private funds, and Congress passed the Economy Act, which permits agencies to pay each other for goods or services, as an exception to the prohibition on transfers. Applicants' interpretation of their authority under these provisions would

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[6] Nor is this how the relevant constitutional actors have understood the division of power with respect to maintaining the White House itself. As the National Trust demonstrated, there is a long history of Congress approving each major modification to the White House. *See* A197a- 210a.

contravene separation-of-powers principles by permitting the President to create an unrestricted fund without congressional approval.

1. NPS's gift statutes do not permit private funding for the Ballroom.

In general, a federal agency "may not accept for its own use . . . gifts of money or other property in the absence of specific statutory authority." *See* GAO Redbook, at 6-222-23 (3d ed. 2006) (citing 16 Comp. Gen. 911 (1937)). This rule against augmentation prevents agencies from "undercutting the congressional power of the purse by circuitously exceeding the amount Congress has appropriated for [an] activity." *Id.* at 6-163. Agencies accordingly may not use gifts or receive a transfer of funds without congressional authorization. *Id.*; *see also* 31 U.S.C. §§ 1532, 3302(b).

For limited purposes, however, Congress has created specific mechanisms through gift statutes, for private parties to donate to federal agencies, including to the NPS Trust Fund, and for agencies to use those amounts without further appropriation from Congress. *See* 31 U.S.C. § 1321(a)(17), (b)(1); 54 U.S.C. § 101101(2). Congress authorized NPS to accept donations only "for the purposes of the [National Park] System." 54 U.S.C. § 101101(2). And Congress delineated such permissible purposes: The NPS's "purpose is to conserve the scenery, natural and historic objects, and wild life in the System units" and to provide for the enjoyment of the National Park units "by such means as will leave them unimpaired for the enjoyment of future generations." 54 U.S.C. § 100101(a). As Respondent persuasively argued below, and the D.C. Circuit concluded, razing the East Wing and erecting a 90,000 square-foot building in its place cannot be described as "conserv[ing] . . .

historic objects" or "leav[ing] them unimpaired." *See* A315a; *Nat'l Tr. for Historic Pres. in the U.S.*, 2026 WL 2276494, at *24 (explaining that "the Park Service found that the ballroom's construction would do the opposite" of "'conserv[ing]' the 'historic objects' in President's Park as the statute requires"). The district court's limited injunction vindicates Congress's ability to control this type of budgetary activity under its exclusive power over the public fisc.

2. The Economy Act does not permit EXR to use private funding received by NPS for Ballroom construction.

Applicants contend that the Economy Act "supplies authority" for their funding plan, Br. at 30, but the Economy Act's limited exception to the general prohibition on transferring funds between agencies' accounts does not apply here. The Economy Act allows an agency that has both authority and funding to obtain goods or services to pay another agency for those goods and services. 31 U.S.C. § 1535(a). The Act does *not*, however, allow an ordering agency "to use another agency to do anything it could not lawfully do itself," GAO Redbook, at 12-26 (3d ed. 2008), authorize a performing agency to receive payments for services it is required by law to provide, *id.* at 12-68, give an ordering agency authority to transfer its administrative functions, *id.* at 12-71, enable either agency to circumvent congressional restrictions on the use of funds, *id.* at 12-46, or permit one agency to "dip into the pocket[s]" of another, *id.*

Applicants have tried to stretch the Economy Act far beyond its limits, contending that "Congress has created other mechanisms," namely, the Economy Act, "by which the Executive can supplement existing funds for White House improvements." Br. at 25. But an agency may not augment its appropriation without authorization from Congress, including under the Economy Act, which merely permits payment for goods or services provided. *See* GAO Redbook, at 12-46 (3d ed. 2008); *id.* at 6-162 (explaining that allowing otherwise "would amount to a usurpation of the congressional prerogative"). Applicants cannot successfully use this limited interagency contracting authority to supplement and expand the purpose of the limited funding Congress decided to provide for White House repairs under Section 105(d).

Congress's decision to limit the purposes for which NPS may spend private donations and the circumstances in which agencies may transfer funds reflects its plenary spending authority. And although Congress elected to use its power of the purse to enable NPS to retain private donations, thereby ceding some authority over the *amount* of public expenditures, it nonetheless retained tight control over the *purpose* for which those donations may be used. Those restrictions protect democratic accountability in expenditures, ensure that the use of funds comports with the agency's mission and Congress's intent, and prevent unauthorized Executive spending.

Applicants seek to disregard those constraints. Under Applicants' theory, the President could collect, transfer, and use unlimited donations to accomplish anything that, in his view, vaguely fits under an existing authorization. In so doing, the President could use the vast levers of government power to urge private actors to donate to priorities Congress has declined to fund. This expansive assertion creates a risk of corruption and contravenes the Constitution, its separation-of-powers principles, and the plain text of Congress's appropriations statutes.

CONCLUSION

Amici respectfully request that the Court deny the application.

Dated: August 18, 2026

Respectfully submitted,

/s/ *Renata M. O'Donnell*
Renata M. O'Donnell
Counsel of Record
Daniel S. Lenz
R. Brent Ferguson
CAMPAIGN LEGAL CENTER
1101 14th Street NW, Ste. 400
Washington, DC 20005
(202) 736-2200
rodonnell@campaignlegalcenter.org
dlenz@campaignlegalcenter.org
bferguson@campaignlegalcenter.org

Counsel for Amicus Curiae *Campaign Legal Center*

Nikhel S. Sus
Christina Wentworth
CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON
P.O. Box 4596
Washington, DC 20044
nsus@citizensforethics.org
cwentworth@citizensforethics.org

Counsel for Amicus Curiae *Citizens for Responsibility and Ethics in Washington*