SETTLEMENT AGREEMENT

The parties to this action, American Federation of Government Employees, AFL-CIO (AFGE); AFGE Local 1236; AFGE Local 3172; American Federation of State County And Municipal Employees, AFL-CIO (AFSCME); National Federation of Federal Employees, IAM, AFL-CIO (NFFE); Service Employees International Union, AFL-CIO (SEIU); National Association of Government Employees, Inc. (NAGE); National Treasury Employees Union (NTEU); International Federation of Professional and Technical Engineers (IFPTE); American Federation of Teachers (AFT); and American Foreign Service Association (AFSA) (together, "Plaintiffs"), and Defendants United States Office of Management and Budget (OMB); United States Office of Personnel Management (OPM); United States Department of Agriculture; United States Department of Commerce; United States Department of Defense; United States Department of Education; United States Department of Energy; United States Department of Health and Human Services; United States Department of Homeland Security; United States Department of Housing and Urban Development; United States Department of Justice; United States Department of the Interior; United States Department of Labor; United States Department of State ("State"); United States Department of Treasury; United States Department of Transportation; United States Department of Veterans Affairs; Consumer Product Safety Commission; United States Environmental Protection Agency; Equal Employment Opportunity Commission; Federal Trade Commission; United States General Services Administration (GSA); Institute of Museum and Library Services; National Aeronautics and Space Administration; National Archives and Records Administration; National Endowment for the Arts; National Endowment for the Humanities; National Gallery of Art; National Science Foundation; National Transportation Safety Board; Nuclear Regulatory Commission; United States Small Business Administration (SBA); Smithsonian Institution; United States Social Security Administration; United States International

Development Finance Corporation; Peace Corps; Commodity Futures Trading Commission; Federal Communications Commission; Federal Election Commission; U.S. Securities and Exchange Commission; U.S. Merit Systems Protection Board (each, a "Federal Agency Defendant"); and the heads of each defendant agency in their official capacities (collectively and together with Federal Agency Defendants, "Defendants," and each side a "Party," and together the "Parties"), by and through their respective counsel, state as follows:

WHEREAS Plaintiffs filed the operative Second Amended Complaint in the civil action captioned *AFGE et al. v. U.S. Office of Management and Budget et al.*, Case No. 3:25-cv-08302-SI, on October 28, 2025, Dkt. No. 92,[1] and a Supplemental Complaint on December 4, 2025, Dkt. No. 126 (collectively, "Complaints");

WHEREAS Plaintiffs' Complaints allege, *inter alia,* (1) that OMB and OPM exceeded statutory authority, acted contrary to law, and acted in an arbitrary and capricious manner in issuing the OMB Lapse Memorandum and associated OPM Guidance and Instructions directing federal agencies to engage in Reductions in Force ("RIFs") during a federal government lapse in appropriations; (2) that OMB, OPM, and Federal Agency Defendants violated the Appropriations Clause, exceeded statutory authority, acted contrary to law, and acted in an arbitrary and capricious manner by administering RIFs during the lapse in appropriations of the federal government; and (3) that OMB, OPM, and certain Federal Agency Defendants acted in violation of federal legislation that ended the federal government lapse in appropriations, prohibited implementation of RIFs through January 30, 2026, and required the rescission of previously noticed RIFs;

WHEREAS, on October 28, 2025, the Court granted Plaintiffs' Motion for Preliminary Injunction, enjoining lapse-related RIFs, *see* Dkt. No. 94;

WHEREAS, on December 17, 2025, the Court granted Plaintiffs' Motion for

[1] All "Dkt." references are to documents filed in this case on the PACER electronic docket.

Preliminary Injunction on the claims raised in the Supplemental Complaint, enjoining implementation of RIFs and requiring recission of RIF notices for employees separated between October 1, 2025 and November 12, 2025, *see* Dkt. No. 139;

WHEREAS, on December 22, 2025, Defendants filed a Notice of Appeal seeking review in the U.S. Court of Appeals for the Ninth Circuit of the District Court's October 28, 2025, and December 17, 2025, Preliminary Injunctions, Dkt. No. 144;

WHEREAS, on December 31, 2025, Defendants filed a Motion to Voluntarily Dismiss the appeal, which the Ninth Circuit granted, *see* Case No. 25-7998 (9th Cir.);

WHEREAS, Defendants filed a Motion to Dismiss the Second Amended and Supplemental Complaints on March 6, 2026, *see* Dkt. No. 166, representing that the guidance "has been formally rescinded" and that "all RIF actions taken during the lapse, and until the expiration of Section 120, were rescinded in full," *id.* at 1;

WHEREAS, in order to resolve this lawsuit, the Parties, through their authorized representatives, and without any admission of fact or law with respect to Plaintiffs' claims, have reached a settlement resolving the claims raised in Plaintiffs' Complaints;

WHEREAS, Defendants State, GSA, and SBA have provided all employees that were involuntarily separated from federal employment pursuant to a RIF on any date between October 1, 2025 and November 12, 2025 with "all pay to which they otherwise would have been entitled in the absence of receiving such notice, including backpay," for the period between when those employees were separated from federal employment and when they were reinstated into federal employment, pursuant to the terms of Section 116 of Public Law No. 119-37 and the December 17, 2025 Preliminary Injunction.

1. THEREFORE, Defendants REPRESENT and the Parties HEREBY AGREE to the following:

a. The Lapse Memorandum and associated Guidance and Instructions have been rescinded in full and are no longer operative.

b. All RIF notices issued by Federal Agency Defendants during the lapse in appropriations between October 1, 2025 and November 12, 2025 have previously been rescinded, and all employees separated pursuant to RIF notices issued between October 1, 2025 and November 12, 2025 were subsequently reinstated to their positions prior to the lapse in appropriations.

2. THEREFORE, the Parties do HEREBY AGREE to all of the following:

a. Defendants OPM and OMB, within 30 days, will provide notice of the actions described in paragraph 1(a), via a published Memorandum, to all Agency Heads, Chief Human Capitol Officers (CHCOs) and Deputy CHCOs at each Federal Agency Defendant.

b. Federal Agency Defendants, within 30 days, will remove any references or links to the rescinded Lapse Memorandum or Guidance on their websites. Notwithstanding this provision, Defendants may provide archival copies of such information on their websites, as necessary, pursuant to 5 U.S.C. 552(a)(2)(D).

c. Within 30 days, Federal Agency Defendants will remove any language from their operative contingency plans for a lapse in appropriations that (1) provides for initiation of RIFs during a lapse in appropriations, or (2) authorizes employees to perform work necessary to administer a RIF process during a lapse in appropriations as an excepted activity, unless performing such work during a lapse in appropriations is expressly authorized by statute. The "operative contingency plan" is any such contingency plan operative within the

30 days of the signing of this agreement, and shall include, for Defendant OPM, the Guidance for Shutdown Furloughs. Plaintiffs acknowledge that such operative contingency plans can change to include such language detailed in points (1) and (2) of this paragraph. However, any such change shall only take effect 30 days after the agencies provide notice of the change to Plaintiffs and publish the proposed change publicly. This paragraph shall continue to apply only to contingency plans operative through December 31, 2026.

d. Within seven days of the effective date of this Settlement Agreement, the Parties shall file a joint stipulation to hold this case in abeyance (attached as Exhibit A to this settlement agreement).

e. Upon the earlier of December 31, 2026, or the passage and enactment of fiscal year 2027 appropriations for all Federal Agency Defendants, absent any notice of changes to contingency plans pursuant to paragraph 2(c), the Parties shall file a joint stipulation of dismissal of this case with prejudice (attached as Exhibit B to this settlement agreement). If a Federal Agency Defendant provides notice of intent to change a contingency plan prior to dismissal, Plaintiffs may file a motion to lift the abeyance with the Court.

f. Each Party will bear its own fees and costs.

3. This Settlement Agreement shall take effect upon being signed by counsel for all Parties.

4. This Settlement Agreement constitutes the entire agreement of the Parties in this case. All prior conversations, meetings, discussions, drafts and writings of any kind are specifically superseded by this Settlement Agreement. No modification to this Settlement Agreement shall be valid unless written and executed by all Parties.

5. The provisions of this Settlement Agreement shall apply to and be binding upon each Party, including but not limited to, their respective officers, directors, servants, employees, successors, and assigns.

6. This Agreement has been entered into by Plaintiffs and Defendants solely for the purposes of compromising disputed claims without protracted legal proceedings and avoiding the expense and risk of such litigation. Therefore, this Agreement is not intended and shall not be deemed an admission by any Party of the merit or lack of merit of an opposing Party's claims or defenses. This Agreement may not be used as evidence or otherwise in any civil or administrative action or proceeding against any Defendant or the United States or any of their present or former officials, employees or agents, either in their official or individual capacities, except for proceedings necessary to implement or enforce the terms hereof.

7. This Settlement Agreement shall be governed by and construed under the laws of the United States.

8. The Parties to this Settlement Agreement agree that it was jointly drafted by them. Accordingly, the Parties agree that rules of construction stating that ambiguity is construed against the drafting Party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Settlement Agreement.

9. Any notice, including correspondence, required with respect to this Settlement Agreement, shall be in writing, effective upon receipt, and sent to the undersigned counsel, or to such other person or persons as any Party may subsequently identify (in accordance with this provision) to the other Parties, by electronic mail, U.S. Mail, or Courier.

10. If any term, condition or provision of this Settlement Agreement, or the application

thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute by the United States invalid, void, or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Settlement Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

11. The Parties agree to cooperate fully and to execute any and all documents, or take any other steps, necessary to implement and effectuate the provisions of this Settlement Agreement. This Settlement Agreement may be executed in counterparts, which may include photocopies or electronic transmissions of the original but all of which together shall constitute one and the same instrument. Photocopies of or electronic transmissions of signatures shall be deemed original signatures and shall be fully binding upon the Parties to the same extent as original signatures.

12. The undersigned certify that they are authorized to enter into this Agreement and to execute and legally bind the Parties listed to the terms and conditions of this Agreement.

Dated: September 23, 2026

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Assistant Attorney General

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DIANE KELLEHER
Director

BRAD P. ROSENBERG
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EXHIBIT A

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, et al., Plaintiffs, v. UNITED STATES OFFICE OF MANAGEMENT AND BUDGET, et al., Defendants.	Case No. 3:25-cv-08302-SI **JOINT MOTION TO HOLD CASE IN ABEYANCE PURSUANT TO SETTLMENT** Judge: Hon. Susan Illston

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Civil Local Rules 7-11 and 7-12, the Parties jointly request that the Court vacate all pending deadlines and hold this case in abeyance through December 31, 2026, pursuant to the parties' settlement.

On [date], the Parties reached a final settlement of the claims in this action. Pursuant to that settlement agreement, Defendants agreed to "remove any language from their operative contingency plans for a lapse in appropriations that (1) provides for initiation of RIFs during a lapse in appropriations, or (2) authorizes employees to perform work necessary to administer a RIF process during a lapse in appropriations as an excepted activity, unless performing such work during a lapse in appropriations is expressly authorized by statute." The agreement also provides that "Plaintiffs acknowledge that such operative contingency plans can change to include such language detailed in points (1) and (2) of this paragraph" but that any such change can only take effect after 30-days' notice to Plaintiffs and after the agency publishes those proposed changes publicly.

Under the Settlement Agreement, the Parties agreed to jointly file this motion to hold the case in abeyance. That abeyance will last until "the earlier of December 31, 2026, or the passage and enactment of fiscal year 2027 appropriations for all Federal Agency Defendants," when "absent any notice of changes to contingency plans pursuant to [the agreement], the Parties shall file a joint stipulation of dismissal of this case with prejudice." Under the Agreement, Plaintiffs may only file a motion to lift this abeyance if Defendants provide notice of intent to authorize RIFs during a lapse in appropriations as described.

Good cause exists to hold this case in abeyance pursuant to the Parties' Settlement Agreement and vacate all pending deadlines, specifically the deadlines for Defendants' pending Motion to Dismiss. This abeyance is necessary to give effect to the settlement, which serves the interests of judicial efficiency, preserves the Parties' resources, and supports negotiated resolution by the parties as an alternative to protracted litigation. The abeyance under the Agreement will last at most through December 31, 2026, at which point the parties will file a motion to dismiss the case with prejudice absent any notice from Defendants of intent to change operative contingency plans.

DATED: _____, 2026

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, et al., Plaintiffs, v. UNITED STATES OFFICE OF MANAGEMENT AND BUDGET, et al., Defendants.	Case No. 3:25-cv-08302-SI **STIPULATION OF DISMISSAL WITH PREJUDICE** Judge: Hon. Susan Illston

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), all Plaintiffs and all Defendants, by and through their respective counsel, hereby stipulate as follows:

1. On September 30, 2025, Plaintiff filed the above-captioned lawsuit (this "Action") in this Court.

2. On [DATE], Plaintiffs and Defendants reached a settlement of all claims in this Action.

3. On [DATE], Plaintiffs and Defendants filed a joint Motion to Hold in Abeyance pursuant to that settlement.

4. As of [December 31, 2026/the passage and enactment of fiscal year 2027 appropriations for all Federal Agency Defendants], Defendants have provided no notice pursuant to the settlement of changes to contingency plans for a lapse in appropriations and Plaintiffs have not filed a motion to lift the abeyance.

THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs and Defendants that this Action should be dismissed in its entirety with prejudice.

DATED: December 31, 2026

Respectfully submitted,

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Associate Attorney General

BRETT A. SHUMATE
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[PROPOSED] ORDER

Pursuant to stipulation, IT IS SO ORDERED. The Clerk is directed to close this case.

Dated: _____

_____
HON. SUSAN ILLSTON
United States District Judge

DECLARATION PURSUANT TO CIV. L.R. 5-1(i)(3)

I, _____, declare that I have obtained the concurrence in the filing of this document from each of the other signatories listed below.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on [December 31, 2026], in [ ].