

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

HEALTHY TEEN NETWORK, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:18-cv-00468-CCB
)	
ALEX M. AZAR II, in his official capacity)	
as SECRETARY, U.S. DEPARTMENT)	
OF HEALTH AND HUMAN)	
SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	
)	
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**JOINT MOTION FOR ORDER PRESERVING REMEDIES
AND AGREED PROPOSED BRIEFING SCHEDULE**

1. Plaintiff Healthy Teen Network, a recipient of a federal grant under Defendant U.S. Department of Health and Human Services (“HHS’s”) Teen Pregnancy Prevention Program (“TPP Program”), filed this action under the Administrative Procedure Act on February 15, 2018. The Mayor and City Council of Baltimore (“the City”), also a recipient of a federal grant under the TPP Program, is seeking to join this action as a Plaintiff. *See* Consent Motion and Amended Complaint, ECF. No. 16 (filed March 22, 2018). Defendant HHS stated in July 6, 2017 Notices of Award to each Plaintiff that it would “shorten[] the [five-year] project period to end on June 30, 2018 at the end of this budget year.” Plaintiff Healthy Teen Network and The Mayor and City Council of Baltimore (collectively “Plaintiffs”) contend that this action was arbitrary, capricious, and contrary to law.

2. The City was granted \$8.75 million to bring evidence-based teen pregnancy prevention education to scale for adolescents across Baltimore’s middle schools, high schools, and clinics funded through the federal Title X Family Planning Program. Healthy Teen Network

was granted \$3.6 million to conduct a study of a web-based, bilingual English/Spanish mobile app that provides medically accurate, age-appropriate sexual and reproductive health information.

3. The parties have met and conferred. Due to timing constraints concerning the funding at issue and agency processes, the parties propose to proceed in the following manner in this litigation.

4. In order to preserve Plaintiffs' remedies should they prevail in this matter, Defendants will preserve and refrain from obligating, through August 31, 2018, any monies appropriated for the TPP Program that would fund Plaintiffs' grants. *See City of Houston, Tex. v. Dep't of Hous. & Urban Dev.*, 24 F.3d 1421, 1426 (D.C. Cir. 1994) (in grant funding disputes, "a court cannot reach" relevant funds to award relief "once [those funds] have been obligated"); *Cty. of Suffolk, N.Y. v. Sebelius*, 605 F.3d 135, 137 (2d Cir. 2010) (same). Defendants plan to begin obligating TPP Program funds during the month of September 2018, absent a court order directing otherwise.

5. Defendants have also represented that should Plaintiffs prevail, it will take HHS two months to process Plaintiffs' applications for the fourth year of funding in order to timely award the funding. An order from the Court would need to issue by April 30, 2018, in order to avoid any lapse in funding should Plaintiffs prevail.

6. Based on the foregoing, the Parties have agreed to a briefing schedule that allows for early resolution of this matter in advance of any lapse of appropriations, and to allow Plaintiffs to adequately plan for other funding contingencies caused by the loss in funding and the effect thereof on their organizations and the populations served by their grants.

7. Accordingly, the Parties jointly propose the following schedule:

- a. Plaintiffs will file their Motion for Preliminary and Permanent Injunction by March 26, 2018.
- b. Defendants will file their Opposition and Cross-Motion by April 4, 2018.
- c. Plaintiffs will file their Reply and Opposition to the Cross-Motion by April 12, 2018.
- d. Defendants will file their Reply in Support of the Cross-Motion by April 19, 2018.
- e. A hearing to be scheduled at the Court's convenience.

8. The parties also respectfully request that the Court render a decision on Plaintiffs' Motion for Preliminary and Permanent Injunction by April 30, 2018. A decision from the Court by that date is necessary given Defendants' representation that it will take two months to process Plaintiffs' applications for the fourth year of funding and Plaintiffs' need to have the funds disbursed, at the latest, by June 30, 2018, in order to continue their projects. If the above briefing schedule does not allow the Court sufficient time to issue a ruling by April 30, 2018, the parties respectfully request that the Court inform them that this is the case.

9. Therefore, the parties jointly stipulate to the foregoing and request that the Court enter the proposed order submitted herewith.

STIPULATED to this 26 day of March, 2018.

DEMOCRACY FORWARD FOUNDATION

U.S. DEPARTMENT OF JUSTICE

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*Application for Admission to United States District Court,
District Court of Maryland pending

CERTIFICATE OF SERVICE

I certify that on March 26, 2018, I filed the foregoing with the Clerk of the Court using the ECF System which will send notification of such filing to the registered participants as identified on the Notice of Electronic Filing.

By: /s/ Skye L. Perryman

Attorney for Plaintiffs