

1 CHAD A. READLER
 2 Principal Deputy Assistant Attorney General
 3 BRIAN STRETCH
 4 United States Attorney
 5 JOHN R. TYLER
 6 Assistant Director
 7 W. SCOTT SIMPSON (Va. Bar #27487)
 8 Senior Trial Counsel
 9 ANTONIA KONKOLY
 10 Trial Attorney
 11 Department of Justice, Room 7210
 12 Civil Division, Federal Programs Branch
 13 20 Massachusetts Avenue, NW
 14 Washington, D.C. 20530
 15 Telephone: (202) 514-3495
 16 Facsimile: (202) 616-8470
 17 E-mail: scott.simpson@usdoj.gov
 18 COUNSEL FOR DEFENDANTS
 19 *(See signature page for parties represented.)*

20 IN THE UNITED STATES DISTRICT COURT
 21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 22 SAN FRANCISCO DIVISION

23 STATE OF CALIFORNIA, ex rel. XAVIER
 24 BECERRA, Attorney General of the State of
 25 California,

26 Plaintiff,

27 v.

28 JEFFERSON B. SESSIONS III, Attorney
 General of the United States, *et al.*,

Defendants.

No. 3:17-cv-04701-WHO

**DEFENDANTS' REPLY TO
 PLAINTIFF'S RESPONSE TO
 NOTICE OF ADMINISTRATIVE
 ACTION**

Defendants respectfully submit the following reply to plaintiff's Response to Defendants' Notice of Administrative Action (Dkt. No. 67):

1. In awarding a grant to California under the COPS Anti-Methamphetamine Program ("CAMP"), the USDOJ Office of Community Oriented Policing Services ("COPS Office") noted that the Office of Justice Programs ("OJP") was inquiring into the grantee's compliance with 8 U.S.C. § 1373 and that the grantee would be unable to obligate or draw down funds until that

1 inquiry is resolved. Plaintiff complains that that inquiry relates to a state agency other than the
2 agency “responsible for administering COPS funds.” The OJP inquiry, however, addresses
3 whether Section 1373 is violated by the California Values Act, which applies to *all* state agencies.
4 *See* Declaration of Alan R. Hanson ¶¶ 13-15 & Exs. F, G (Dkt. No. 42-1); Cal. Gov’t Code
5 §§ 7284-7284.12.

6 2. The COPS Office’s letter notifying California of its CAMP award was dated
7 November 16, 2017, and stated that the grantee needed to accept the award within 90 days from
8 the date of the letter. Plaintiff complains that it did not receive the letter until December 4,¹
9 creating “confusion” as to the deadline for acceptance. The award letter and the accompanying
10 “Award Terms and Conditions,” however, cited the “2017 CAMP Award Owner’s Manual,”
11 which states that grantees needing more than 90 days to accept an award may submit a request for
12 extension, “explain[ing] the circumstances that prevent [the] agency from signing the award
13 document within the 90-day period and identify[ing] the date by which the award document will
14 be electronically signed.” *See* 2017 COPS Anti-Methamphetamine Program (CAMP) Award
15 Owner’s Manual at 34, *available at* <https://cops.usdoj.gov/pdf/2017AwardDocs/camp/AOM.pdf>.
16 The pendency of California’s compliance with Section 1373 would likely justify such an
17 extension.

18 Dated: December 11, 2017

19
20 Respectfully submitted,

21 CHAD A. READLER
22 Principal Deputy Assistant Attorney General

23 BRIAN STRETCH
24 United States Attorney

25 JOHN R. TYLER
26 Assistant Director

26 ¹ The COPS Office’s usual practice is to date the award letters as of when it makes the
27 grant decisions internally and obligates the funds. The 2017 CAMP awards “remain[ed]
28 pending” as of November 21, 2017, because the Office had not yet announced the awards. *See*
Declaration of Andrew A. Dorr ¶ 12 (Dkt. No. 42-2).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ W. Scott Simpson

W. SCOTT SIMPSON (Va. Bar #27487)

ANTONIA KONKOLY
Trial Attorney

Attorneys, Department of Justice
Civil Division, Room 7210
Federal Programs Branch
20 Massachusetts Avenue, NW
Washington, D.C. 20530
Telephone: (202) 514-3495
Facsimile: (202) 616-8470
E-mail: scott.simpson@usdoj.gov

COUNSEL FOR DEFENDANTS
JEFFERSON B. SESSIONS III, Attorney
General of the United States; ALAN R.
HANSON, Principal Deputy Assistant
Attorney General; and U.S. DEPARTMENT
OF JUSTICE