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August 30, 2022

VIA CM/ECF

Michael E. Gans, Clerk of Court  
U.S. Court of Appeals for the Eighth Circuit  
Thomas F. Eagleton Courthouse  
111 South 10th Street  
Room 24.329  
St. Louis, MO 63102

RE: *Missouri v. Biden*, No. 22-1104 (oral argument scheduled for Sept. 21, 2022)

Dear Mr. Gans:

We write to respond to plaintiffs' letter regarding recent guidance issued by the Centers for Disease Control and Prevention (CDC). As the CDC explained in recent guidance, although the protection now provided by "current vaccines against symptomatic infection and transmission is less than that against severe disease," vaccines "remain highly protective against severe illness and death." CDC, *Benefits of Getting A COVID-19 Vaccine*, <https://perma.cc/6LFW-T3XK> (last updated Aug. 17, 2022). Moreover, "the rates of COVID-19-associated hospitalizations and deaths are substantially higher among unvaccinated adults than among those who have received a primary series and those who are up to date with recommended COVID-19 vaccination." *Id.* As we have explained in this case, the Acting OMB Director reasonably concluded that a vaccinated federal contractor workforce would advance the economy and efficiency of the federal procurement system in part by reducing absences from workers that catch the virus, become seriously ill, and miss work. *See* Reply Br. 11. Plaintiffs do not question that rationale.

Sincerely,

s/ David L. Peters

David L. Peters

U.S. Department of Justice

Appellate Staff, Civil Division

cc (via CM/ECF): Counsel of Record