

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

NOTUS MEDIA LLC,

1000 Wilson Boulevard, Suite 2700
Arlington, VA 22209

DAVE LEVINTHAL,

1000 Wilson Boulevard, Suite 2700
Arlington, VA 22209

Plaintiffs,

v.

Case No. 26-CV-1004

**U.S. AGENCY FOR INTERNATIONAL
DEVELOPMENT,**

1300 Pennsylvania Avenue NW
Washington, DC 20523

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs NOTUS Media LLC (“NOTUS”) and NOTUS Senior Editor Dave Levinthal bring this suit against Defendant U.S. Agency for International Development (“USAID”), and state as follows:

INTRODUCTION

1. This is an action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory, injunctive, and other appropriate relief.
2. Through FOIA, Plaintiffs seek records that will shed light on how USAID officials anticipated and reacted to the results of the 2024 U.S. presidential election.
3. Releasing the requested records will inform the public about “what their government [was] up to,” *Department of Justice v. Reporters Committee for Freedom of Press*, 489 U.S. 749, 773 (1989), during this particularly consequential period in USAID’s history.

4. In violation of FOIA, however, USAID has improperly withheld all of the records responsive to Plaintiffs' request.

PARTIES

5. Plaintiff NOTUS is a news organization based in Arlington, Virginia. Launched in January 2024, NOTUS covers government and politics and publishes nonpartisan journalism that reaches millions of people each month through its website, daily newsletter, and podcast, as well as frequent citation and republication in local and national media.

6. Plaintiff Levinthal is a Senior Editor at NOTUS, where his work focuses on money and politics, investigations, and special projects. He is the former editor-in-chief of Raw Story and deputy editor of Business Insider, and his writing has appeared in The Atlantic, Rolling Stone, TIME, Columbia Journalism Review, Washingtonian and the Washington Post.

7. Defendant, USAID, is an agency within the meaning of 5 U.S.C. § 552(f)(1). USAID has possession and control of the records requested by Plaintiffs.

JURISDICTION AND VENUE

8. This action arises under FOIA. This Court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) & (a)(6)(C)(i). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

9. Venue is proper in this judicial district under 5 U.S.C. § 552(a)(4)(B).

FACTUAL ALLEGATIONS

10. On November 25, 2024, Levinthal submitted a FOIA request (the "Request") to USAID seeking records from November 4-9, 2024 – a six-day period surrounding the date of the 2024 U.S. presidential election – that included any of 23 specified words, terms, or phrases. A true and correct copy of the Request is attached hereto as Exhibit A.

11. On November 26, 2024, USAID acknowledged receipt of the Request, assigned it reference number F-00104-25, and sought clarification as to its scope. That same day, Levinthal responded by amending the Request to include the records of only 117 specifically identified USAID officials. A true and correct copy of this email exchange is attached hereto as Exhibit B.

12. On September 18, 2025, USAID contacted Levinthal by email to ask for confirmation that Levinthal wanted USAID to continue processing the Request, and Levinthal responded by email the same day to confirm continued interest in the Request. A true and correct copy of this email exchange is attached hereto as Exhibit C.

13. To date, USAID has not produced any records responsive to the Request.

14. To date, USAID has not informed Plaintiffs as to the scope of the records, if any, that the agency will produce in response to the Request.

15. To date, USAID has not cited any allegedly applicable FOIA exemption(s) or otherwise identified any basis for withholding, in whole or part, any of the requested records.

CLAIM FOR RELIEF

COUNT I

Declaratory and Injunctive Relief: Constructive Denial in Violation of FOIA, 5 U.S.C. § 552

16. Plaintiffs reallege and incorporate by reference all previous paragraphs as if fully set forth herein.

17. FOIA provides this Court with “jurisdiction to enjoin [USAID] from withholding agency records and to order the production of any agency records improperly withheld from [Plaintiffs].” 5 U.S.C. § 552(a)(4)(B).

18. The records Plaintiffs seek are agency records within USAID’s control.

19. FOIA requires that within 20 working days of receiving a FOIA request, an agency must notify a requester of, *inter alia*, the scope of the documents that the agency will produce and

the scope of the documents that the agency plans to withhold under any FOIA exemptions. *See* 5 U.S.C. § 552(a)(6)(A)(i).

20. USAID received the Request, as amended, on November 26, 2024. Ex. C.

21. Pursuant to FOIA, USAID was required to respond to the Request by December 26, 2024. 5 U.S.C. § 552(a)(6)(A)(i).

22. To date, however, USAID has not made and communicated to Plaintiffs a “determination” on the Request within the meaning of 5 U.S.C. § 552(a)(6)(A)(i).

23. There is no basis under FOIA to withhold, in whole or in part, the records requested by Plaintiffs. USAID has wrongfully withheld agency records in violation of FOIA.

24. Plaintiffs request a declaratory judgment that USAID has violated FOIA and that Plaintiffs are entitled to immediately receive the requested records.

25. Plaintiffs further request that, pursuant to 5 U.S.C. § 552(a)(4)(B), the Court issue an injunction directing USAID to produce the requested agency records in full and setting a deadline for compliance.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Declare USAID’s failure to provide responsive records unlawful under FOIA;
- B. Enter an injunction, pursuant to 5 U.S.C. § 552(a)(4)(B), directing USAID to make the requested records available to Plaintiffs, unredacted, and without further delay, and setting a deadline for compliance;
- C. Provide for expeditious proceedings in this action;
- D. Award Plaintiffs their costs and reasonable attorneys’ fees incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

E. Grant such other and further relief as the Court may deem just and proper.

Dated: March 24, 2026

Respectfully submitted,

BALLARD SPAHR LLP

/s/ Maxwell S. Mishkin

Maxwell S. Mishkin (#1031356)

Chad R. Bowman (#484150)

1909 K Street NW, 12th Floor

Washington, DC 20006

Tel: (202) 661-2200

Fax: (202) 661-2299

mishkinm@ballardspahr.com

bowmanchad@ballardspahr.com

Counsel for Plaintiffs

Exhibit A

From: Dave Levinthal
Sent: Monday, November 25, 2024 6:36 PM
To: foia@usaid.gov <foia@usaid.gov>
Subject: FOIA Request for USAID

Nov. 25, 2024

Dear USAID FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, et seq.

I request that copies of the following records and documents be provided to me:

Any records and documents — including but not limited to emails, memoranda, notes, electronic chat messages and calendar items — that include any of the following words/terms in either uppercase or lowercase form:

Donald
Trump
Kamala
Musk
Elon
DJT
D.J.T.
MAGA
fascist
fascism
authoritarian
authoritarianism
autocrat

dictator
commie
deep state
swamp
Project 2025
J6
bitch
fuck
fucked
shit

The date range for my request is Nov. 4, 2024, to Nov. 9, 2024.

As you know, FOIA requires agencies to release information unless it is specifically exempt from disclosure, and also requires agencies to release all reasonably segregable nonexempt portions of documents, i.e., to redact exempt portions of documents and release the rest. See 5 U.S.C. § 552(a)(8).

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a working journalist. The records released to me will be used strictly for noncommercial, journalistic purposes in the public's interest.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.

I also ask that my request receive expedited processing because it concerns the compelling need of informing the public about government activities during a presidential transition period, leading to a new presidential administration.

I further request that the information I seek be provided in electronic format, whenever possible.

Please contact me at 817-917-4141 to discuss any aspect of my request. I have also included my email and mailing addresses below.

Thank you for your prompt consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Dave Levinthal". The signature is written in a cursive, flowing style.

Dave Levinthal

Ph. 817-917-4141

Email: dave@davelevinthal.com

Mailing address: 4842 Eastern Ave. NE, Washington, DC 20017

Dave Levinthal
817-917-4141
dave@davelevinthal.com
www.davelevinthal.com

Exhibit B

From: Dave Levinthal <dave@davelevinthal.com>
Sent: Tuesday, November 26, 2024 10:58 AM
To: sowilliams@usaid.gov <sowilliams@usaid.gov>
Subject: Re: USAID FOIA Request No. F-00104-25 (Immediate Action Required)

Dear Ms. Williams,

Thank you for your message.

Per your message, I would like to amend my initial FOIA request to have it apply only to the following USAID staff members / officials:

Samantha Power, administrator
Michele Sumilas, acting deputy administrator
Isobel Coleman, deputy administrator for policy and programming
Clinton D. White, counselor
Rebecca Chalif, chief of staff
Colleen Allen, assistant administrator
Kimberly Ball, director
Brittany Brown, assistant to the administrator
Michael Camilleri, interim head of LAC
Neneh Diallo, chief diversity officer
Laila ElGohary, executive secretary
Dina Esposito, assistant to the administrator
Shannon Green, assistant to the administrator
Atul Gawande, assistant administrator
Jason Gray, CIO
Cindy Huang, director
Jun Jin, deputy general counsel
Dean Karlan, agency chief economist
Sepideh Keyvanshad, senior deputy assistant administrator

Sonali Korde, assistant to the administrator
Erin Elizabeth McKee, assistant administrator
Michael Metzler, senior deputy assistant administrator
Reginald W. Mitchell, CFO
Monde Muyangwa, assistant administrator
Andrew Plitt, senior deputy assistant administrator
Jami Rodgers, senior procurement executive
Sharon Sadler-Gray, acting assistant administrator
Michael Schiffler, assistant administrator
Stephen Shih, director
Christophe Tocco, acting assistant to the administrator
John Voorhees, director of security
Gillian Caldwell, chief climate officer
Veena Reddy, India mission director
Art Brown, senior foreign service officer
Cybill Sigler, acting deputy assistant administrator
Jeanne Pryor, deputy assistant administrator
Johnny Walsh, deputy assistant administrator
William M. Butterfield, country representative
Trevor Hublin, country representative
Alyson McFarland, country representative
Paul Richardson, country representative
Philippe Accilien, country representative
Les McBride, country representative
Yves Kore, country representative
John Dunlop, mission director
Nancy Ostrowski, country representative
David Gosney, mission director
Scott Hcklander, mission director
Kimberly Rosen, mission director
Alexious Butler, mission director
Jim Wright, mission director
Michele Russell, mission director
Pamela Fessenden, mission director
Oghale Oddo, mission director
Lisa Washington-Sow, country representative
Helen Pataki, Mission director
McDonald Homer, country representative
Maria Barrón, mission director
Melissa Jones, mission director
Keisha Effiom, mission director
Alyssa Leggoe, mission director
Catie Lott, mission director
David Thompson, mission director
Margaret Sancho, mission director
Leslie Marbury, mission director
Criag Hart, mission director
Daniele Nyirandutiye, mission director

Jo Lesser-Oltheten, mission director
Peter A. Wiebler, mission director
Janean Davis, mission director
Joel Sandefur, mission director
Reed J. Aeschliman, mission director
Adam Schmidt, mission director
Kerry Pelzman, mission director
Luis Rivera, mission director
Steven Olive, mission director
Jeffrey P. Cohen, mission director
Michael McCord, country representative
Sara Werth, mission director
Ryan Washburn, mission director
Zema Semunegus, mission director
V. Kate Somvongsiri, mission director
Nino Nadiradze, country representative
Gabriel Grau, mission director
John P. Riordan, mission director
Mikaela Meredith, mission director
Aler Grubbs, mission director
Julie Koenen, mission director
Brooke Isham, mission director
Jeri Dible, country representative
Patrick E. Meyer, senior development advisor
Mary Ellen Devitt, mission director
Jeff Bryan, mission director
Ted Gehr, mission director
Courtney Chubb, mission director
Michael Nehrbass, mission director
John G. Allelo, mission director
Rebecca Latorraca, mission director
Daniel Sanchez-Bustamante, country representative
Christopher Cushing, mission director
Haven Cruz-Hubbard, mission director
Jaidev Singh, country representative
Jene Thomas, mission director
Michael Eddy, mission director
Mark Kerr, country representative
Amy Paro, mission director
Sean Jones, mission director
Erin Mone-Marquez, intermin mission director
Leslie Reed, mission director
Julie Southfield, mission director
Christopher La Fargue, country representative
Alisa Cameron, mission director
Randy Ali, mission director
Soni Hysi, senior development analyst
Scott Dobberstein, mission director

Amy Tohill-Stull, mission director
Kimberlee Bell, country director

Please let me know if you have any questions.

Best,
DAVE

Dave Levinthal
817-917-4141
dave@davelevinthal.com
www.davelevinthal.com

From: sowilliams@usaid.gov <sowilliams@usaid.gov>
Sent: Tuesday, November 26, 2024 10:26 AM
To: Dave Levinthal <dave@davelevinthal.com>
Subject: USAID FOIA Request No. F-00104-25 (Immediate Action Required)

November 26, 2024
USAID FOIA Request No. F-00104-25 (Immediate Action Required)

Dear Mr. Levinthal:

Thank you for your interest in the U.S. Agency for International Development (USAID). This is in response to your November 25, 2024 Freedom of Information Act (FOIA) request. Specifically, you requested any records and documents — including but not limited to emails, memoranda, notes, electronic chat messages and calendar items — that include any of the following words/terms in either uppercase or lowercase form: Donald Trump Kamala Musk Elon DJT D.J.T. MAGA fascist fascism authoritarian authoritarianism autocrat dictator commie deep state swamp Project 2025 J6 bitch fuck fucked shit The date range for my request is Nov. 4, 2024, to Nov. 9, 2024. (Date Range for Record Search: From 11/4/2024 To 11/9/2024).

Clarification

The FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records with a reasonable amount of effort. The FOIA was not intended to reduce government agency staff to researchers or full-time investigators on behalf of FOIA requesters. In this instance, your request does not adequately describe the records sought; therefore, we are unable to process it at this time. If you wish to pursue your request, please provide as much information as possible, such as: names of USAID personnel whose emails and chats you wish to be searched.

Your request has been placed on hold. Please note that, if we do not receive your written response clarifying the types of records you seek--as articulated above--within 10 days from the date of this communication, we will consider the nonresponse a withdrawal of your request. As such, your request will be closed and no further action will be taken on it. If you wish to discuss further, you may contact this office at foia@usaid.gov.

This is not a denial of your request. Once we receive this information, your request will be perfected. You will be notified of the FOIA Specialist assigned to process your case. If you have questions, please contact us by email at foia@usaid.gov.

Thank you.

Sincerely,
Sophia Williams
FOIA Specialist
Bureau for Management
Office of Management Services
Information and Records Division

Exhibit C

On Sep 19, 2025, at 14:33, FOIA Mailbox (USAID) <foia@usaid.gov> wrote:

Good afternoon,

We will continue to process your request.

V/r,

FOIA Specialist

USAID - US Agency for International Development FOIA Office

Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD)

| foia@USAID.gov

On Thu, Sep 18, 2025 at 3:49 PM Dave Levinthal <dave@davelevinthal.com> wrote:

I am writing to confirm that I remain interested in my FOIA request.

Please see my responses to your questions (in bold) below:

What we are requesting from you

If you would like us to continue processing your FOIA request, please reply to this email by October 31, 2025, with the following information:

- Your full name: **Dave Levinthal**
- The FOIA request tracking number: **#F-00104-25**
- The date your FOIA request was submitted: **Nov. 25, 2025**
- A brief confirmation that you wish the agency to continue processing your request: **I am confirming that I wish for you to continue processing my request, which is now nearly 10 months old. I would ask that I be provided an update on when records responsive to my request will be delivered.**

Sincerely,

Dave Levinthal

Dave Levinthal

817-917-4141

www.davelevinthal.com

From: jamoore@usaid.gov <jamoore@usaid.gov> on behalf of FOIA Mailbox (USAID) <foia@usaid.gov>

Sent: Thursday, September 18, 2025 3:41 PM

Subject: Confirmation of Continued Interest in Your FOIA Request / “Still Interested” Inquiry

We are writing regarding your Freedom of Information Act (FOIA) request submitted on or before **January 20, 2025**. As outlined in the Department of Justice’s “Still Interested” guidance, USAID is conducting a review of pending FOIA requests to ensure that our processing efforts are directed toward matters of continued interest. You may view the Federal Register notice here: [Federal Register Notice — Freedom of Information Act Still Interested Inquiry](#).

What we are requesting from you

If you would like us to continue processing your FOIA request, please reply to this email by **October 31, 2025**, with the following information:

- Your full name
- The FOIA request tracking number (if available)
- The date your FOIA request was submitted

- A brief confirmation that you wish the agency to continue processing your request

Please use the subject line: **“Still Interested: FOIA Request #[Tracking Number]”** to help us match your response to your request.

What Happens If We Do Not Hear From You

If we do not receive your response by October 31, 2025, we will administratively close your FOIA request without further action. Please note that you may submit a new FOIA request in the future, should you later decide to do so.

Additional Information

This notice does **NOT** apply to:

- FOIA requests currently under appeal
 - Requests subject to active litigation
-

If you have any questions, require assistance with this process, or need information in an accessible format, please contact us at foia@usaid.gov, FOIA Public Liaison, Christopher Colbow.

Thank you for your attention to this matter.

V/r,

FOIA Specialist

USAID - US Agency for International Development FOIA Office

Bureau for Management, Office of Management Services, Information and Records Division
(M/MS/IRD) | foia@USAID.gov

Sensitive But Unclassified (SBU)

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