

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

American Foreign Service Association, *et al.*,

*Plaintiffs,*

v.

President Donald J. Trump, *et al.*,

*Defendants.*

Case No. 1:25-cv-00352-CJN

**MOTION OF 202 MEMBERS OF CONGRESS FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 7(o), 202 Members of Congress respectfully seek this Court's leave to file the attached *amicus curiae* brief in support of Plaintiffs' pending motion for summary judgment, ECF No. 51. The proposed *amicis curiae* brief is attached as Exhibit A and a proposed order granting this motion is attached as Exhibit B. The motion for leave to file this brief should be granted for the following reasons:

1. Proposed *amici* are members of Congress who are well-acquainted with the United States Agency for International Development (USAID). They include members who participated in drafting the Foreign Affairs Reform and Restructuring Act of 1998, which established USAID as an independent agency; participated in drafting recent Appropriations Acts that require USAID to be funded as an independent agency with its own appropriation and that limit the president's ability to unilaterally reorganize USAID; serve or served on committees with jurisdiction over foreign aid and appropriations; and currently serve in the leadership of the House of Representatives or served in the leadership when USAID was established as an independent agency. Many members have also visited USAID projects around the globe and met with those who administer and benefit from

those projects. They are thus familiar with the statutory basis for USAID, as well as its essential role in advancing the United States' strategic interests in the world. A full list of proposed *amici* is in the appendix to the brief.

2. This Court has “broad discretion” to permit participation by third parties as *amicus curiae*. *Nat’l Ass’n of Home Builders v. U.S. Army Corps of Engineers*, 519 F. Supp. 2d 89, 93 (D.D.C. 2007). The Court has permitted such participation where a third party has “unique information or perspective” that can contribute to the Court’s understanding of the matter in question, *Jin v. Ministry of State Sec’y*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (internal quotation marks omitted), and “relevant expertise and a stated concern for the issues at stake in [the] case,” *District of Columbia v. Potomac Elec. Power Co.*, 826 F. Supp. 2d 227, 237 (D.D.C. 2011).

3. The proposed brief plainly satisfies these standards. Among other things, proposed *amici* are particularly well-positioned to explain the history of USAID, including the context in Congress made the reasoned decision to establish USAID as an independent agency outside the Department of State and its repeated decisions to support USAID as a separate agency with its own appropriation. Proposed *amici* are also well-positioned to explain the history of requirements included in appropriations acts for nearly a decade that require notification and consultation to Congress before the executive implements any reorganization of USAID. Defendants’ recent actions toward USAID—including freezing and then cancelling the vast majority of USAID-funded awards, terminating or placing on indefinite administrative leave the vast majority of the agency’s workforce, including those posted overseas, and shuttering its headquarters—show blatant disregard for Congress’s role and express directives in clear violation of the Constitution’s mandate that the laws be faithfully executed. Not only do those efforts violate our law and constitutional structure, they also threaten the mission USAID was created to advance—protecting

American national security, strengthening diplomatic ties with partners and allies, and promoting stability around the globe. Proposed *amici* thus have a substantial interest in this case.

4. This Court’s local rules do not specify the time for filing of amicus briefs, providing instead that they “shall be filed within such time as the Court may allow.” Local Rule 7(o)(3). This brief is timely because it is submitted one week before the deadline for Defendants to oppose Plaintiffs’ motion for summary judgment, thereby affording Defendants sufficient time to respond to the arguments and information contained in the proposed *amicus curiae* brief.

5. Pursuant to Local Rules 7(m) and 7(o), counsel for *amici* conferred with counsel for the parties in this case. Plaintiffs consent to this motion and Defendants do not oppose this motion.

For these reasons, proposed *amici* respectfully request that the Court grant their motion for leave to file the proposed *amicus curiae* brief in support of Plaintiffs’ motion for summary judgment.

Date: March 31, 2025`

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of March 2025, I electronically filed the foregoing motion, together with its accompanying proposed *amici curiae* brief and proposed order, using the Court's CM/ECF system, which effected service upon all parties who have entered an appearance.

Date: March 31, 2025

/s/ Sharon M. McGowan

Sharon M. McGowan

# **EXHIBIT A**

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PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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**INTERESTS OF *AMICI CURIAE***<sup>1</sup>

Proposed *amici* are 202 members of Congress who are well-acquainted with the United States Agency for International Development (USAID).<sup>2</sup> They include members who participated in drafting the Foreign Affairs Reform and Restructuring Act of 1998, which established USAID as an independent agency; participated in drafting recent Appropriations Acts that require USAID to be funded as an independent agency with its own appropriation and that limit the president's ability to unilaterally reorganize USAID; serve or served on committees with jurisdiction over foreign aid and appropriations; and currently serve in the leadership of the House of Representatives or served in the leadership when USAID was established as an independent agency. Many members have also visited USAID projects around the globe and met with those who administer and benefit from those projects. They are thus familiar with the statutory basis for USAID, as well as its essential role in advancing the United States' strategic interests in the world.

Defendants' recent actions toward USAID—including freezing and then cancelling the vast majority of USAID-funded awards, terminating or placing on indefinite administrative leave the vast majority of the agency's workforce, including those posted overseas, and shuttering its headquarters—show blatant disregard for Congress's role and express directives in clear violation of the Constitution's mandate that the laws be faithfully executed. Not only do those efforts violate our law and constitutional structure, they also threaten the mission USAID was created to advance—protecting American national security, strengthening diplomatic ties with partners and allies, and promoting stability around the globe. *Amici* thus have a substantial interest in this case.

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<sup>1</sup> Pursuant to LcR7(o) and FRAP 29(a)(4)(E), no party's counsel authored this brief, in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting this brief. No person other than *amici curiae* or their counsel contributed money that was intended to fund preparing or submitting this brief.

<sup>2</sup> A full list of *amici* appears in the Appendix.

## INTRODUCTION AND SUMMARY OF ARGUMENT

The United States Agency for International Development (USAID) was created during the Cold War to advance the United States' long-term strategic interests. As President Kennedy, who first established USAID through an executive order, understood, promoting stability abroad enhances the United States' influence in the world community and helps prevent crises from spreading to our shores. An important tool to promote this stability is foreign aid, such as humanitarian assistance to respond to disasters and stabilize war-torn countries, health programs to prevent and mitigate infectious disease outbreaks, and economic development to promote investment and job opportunity.

For nearly 40 years, USAID administered foreign aid from within the Department of State. Recognizing that development works best alongside, rather than secondary to, diplomacy and defense, Congress decided to restructure the country's foreign policy apparatus, establishing USAID instead as an independent agency outside the Department of State. Since 1998, Congress has rejected efforts to eliminate USAID or fold the agency back into the Department of State, and has instead supported USAID as a separate agency with its own appropriation. After it became apparent that the first Trump Administration was considering defunding large portions of USAID and transferring significant functions to the Department of State—an early sign of what was to come—Congress explicitly specified in appropriations statutes that the president cannot unilaterally reorganize USAID, much less dismantle it, without prior consultation with Congress. That is, Congress has made clear its express will that USAID remain an independent agency and that it not be substantially reorganized without congressional involvement.

Directly contrary to these statutory mandates, President Trump and his Co-Defendants seek to eliminate USAID by executive fiat, costing thousands of jobs, spoiling billions of dollars of investment in long-term projects aimed at fostering sustainable growth and stability, imperiling

millions of lives, and severely hampering the country’s security, global influence, and credibility. The intent is clear: “feed[] USAID to the wood chipper” and “CLOSE IT DOWN!”<sup>3</sup> Indeed, they claim to have effectively accomplished this aim.<sup>4</sup> The evidence, unfortunately, largely bears this out. Since January, Defendants have taken swift and concerted, if haphazard, action to dismantle USAID in its entirety by, among other things, freezing and then cancelling the vast majority of USAID-funded contracts, grants, and other awards, terminating or placing on administrative leave the vast majority of the agency’s workforce, and shuttering its headquarters. Had there been any doubt, there cannot be now. On March 28—far too late to satisfy statutory requirements—Defendants notified Congress of their plan to formally close the agency by transferring certain USAID functions to the Department of State and ceasing the rest of USAID functions.

These actions brazenly violate the Constitution’s fundamental principle of separation of powers. Congress exercised its legislative power under Article I of the Constitution to establish USAID as an independent agency. Congress further exercised its legislative and spending powers under Article I to explicitly require that it be officially notified and consulted before any substantial reorganization of USAID, and that the agency be funded with its own appropriation. Despite these clear legislative mandates, Defendants over the past two months have taken calculated steps to dismantle the agency to the point of non-function and then subsume it within the Department of State—all without meaningful consultation with or notice to Congress until they have all but accomplished their aim. It is no excuse that USAID’s work implicates foreign policy. As the Supreme Court has frequently emphasized, a president must hew to the ordinary controls and

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<sup>3</sup> @elonmusk, X (Feb. 1, 2025, 10:54 PM), <https://tinyurl.com/mskvue6w>; Karoun Demirjian, *Trump Calls Directly for Closure of U.S.A.I.D.*, N.Y. Times (Feb. 7, 2025), <https://tinyurl.com/5aj5zvzc>.

<sup>4</sup> The White House, Remarks by President Trump at Future Investment Initiative Institute Priority Summit (Feb. 19, 2025), <https://tinyurl.com/ytvewrsm>.



checks of Congress even when foreign affairs are at stake. As a result, Defendants cannot unilaterally undo Congress's reasoned determinations. Only Congress can do that.

A president, of course, may disagree with laws enacted by Congress. When that happens, the remedy is to participate in the political process and make a policy proposal to Congress—the only branch of government empowered to make laws and, as relevant here, enact legislation that would dismantle a statutorily created agency with its own appropriation. Indeed, even internal documents from Defendants recognize that their actions require congressional action. That recognition is unsurprising: The first Trump Administration followed this constitutionally mandated course in 2019 by working with Congress to consolidate two agencies into a newly constituted agency to mobilize private capital overseas and advance the country's foreign policy. Not doing so here reflects a willful disregard of what the Constitution requires.

Defendants' actions threaten more than foundational constitutional principles. By promoting long-term sustainable development and responding to emergencies abroad, USAID has reduced the likelihood that a foreign conflict will expand and require more costly interventions. Suspending foreign aid means undermining these investments that have protected Americans by, for example, countering radicalization, containing public health crises, and countering the type of gang violence and economic instability that spur migration to the southern border. By dismantling USAID, Defendants also risk eroding the gains the agency had made in fostering goodwill—leaving the door open for other actors, like China, Russia, and Iran, to expand their influence. Foreign aid may only be one part of the United States' foreign policy, but it is a critical one.

Defendants should not be permitted to blatantly disregard congressional will to the detriment of our constitutional structure and our security. *Amici* respectfully urge this Court to grant Plaintiffs' motion for summary judgment.

## ARGUMENT

### **I. Congress established USAID as an independent agency with primary responsibility for the United States' foreign aid.**

At the height of the Cold War, Congress passed the Foreign Assistance Act of 1961 (FAA) to support the United States' administration of foreign aid and therefore strengthen American influence abroad. Pub. L. No. 87-195, 75 Stat. 424 (codified at 22 U.S.C. § 2151 *et seq.*). Before then, responsibility for foreign aid had been “[b]ureaucratically fragmented” across multiple agencies, leading to a “haphazard and irrational structure” plagued by “unclear objectives.” *See* President John F. Kennedy, Special Message to the Congress on Foreign Aid (Mar. 22, 1961) [hereinafter *President Kennedy's Special Message*], <https://tinyurl.com/37fmx5xe/>. President Kennedy recognized that long-term sustainable development is an essential pillar to the United States' foreign policy, and thus its “security” and “prosperity,” and therefore called for the creation of a “single agency . . . equipped with a flexible set of tools.” *Id.* Congress responded, authorizing him to establish such an agency. *See* 22 U.S.C. § 2151. President Kennedy did so, establishing USAID within the Department of State to serve as a centralized vehicle for disbursement, delivery, and oversight of foreign aid. *See Administration of Foreign Assistance and Related Functions*, Exec. Order 10973, 26 Fed. Reg. 10469, § 102(a) (Nov. 3, 1961).

Although USAID was originally created by executive order, Congress has since statutorily mandated its existence, making concrete its support for the priorities that drove the creation of the agency in the first place: using foreign aid to, among other things, create new markets that give rise to economic opportunity and stability, remove conditions that give rise to violent extremism and terrorism, and prevent disasters from creating conditions that give rise to conflict and discord.

Following extensive deliberation within and between Congress and the Clinton Administration,<sup>5</sup> Congress passed the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Div. G, Pub. L. No. 105-277, 112 Stat. 2681-761 (codified at 22 U.S.C. § 6501 *et seq.*). FARRA abolished and merged two agencies, the U.S. Arms Control and Disarmament Agency and the U.S. Information Agency, into the Department of State. *See* 22 U.S.C. §§ 6511-12, 6531-32. And while some had proposed keeping USAID within the Department of State, Congress decided instead to reconstitute USAID as an independent agency, *id.* § 6563(a), subject to a time-limited window expiring in 1999, during which the president could submit to Congress a “reorganization plan and report,” which could have abolished USAID and transferred its functions back to the Department of State, or otherwise consolidated, reorganized, and streamlined the agency, *id.* §§ 6601(a), (d). President Clinton, however, opted to maintain USAID as “a distinct agency with a separate appropriation.”<sup>6</sup> Under FARRA’s plain language, now that the time-limited window has long expired, the president lacks any authority to undo Congress’ statutory mandate.

Congress has mandated not only that USAID continue to exist, but also that it carry out specific programs and other functions. For example, the Women’s Entrepreneurship and Economic Empowerment Act of 2018, Pub. L. No. 115-428, 132 Stat. 5509 (codified at 22 U.S.C. § 2151-2), championed by Ivanka Trump, directs the agency to conduct a “socioeconomic analysis . . . to identify, understand, and explain gaps between men and women” that must then inform USAID programming aimed at, among other things, securing the property rights of women in developing countries, reducing economic and educational gender gaps, and eliminating gender-based violence.

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<sup>5</sup> *See* Larry Q. Nowels, Cong. Rsch. Serv., 97-538 F, *Foreign Policy Agency Reorganization in the 105th Congress*, 1-2 (Nov. 6, 1998), <https://tinyurl.com/mub4vcpf>.

<sup>6</sup> Reorganization Plan and Report Submitted by President Clinton to Congress Pursuant to Section 1601 of the Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277 (Dec. 30, 1998), <https://tinyurl.com/4xvtnw37>.

*Id.* § 3(a), (c). The mandatory statutory language confirms that the executive lacks authority to prevent USAID from carrying out its statutorily mandated duties.

Moreover, by funding USAID as a separate agency with its own appropriation, Congress has repeatedly reaffirmed the agency’s independence and its distinct role in advancing the United States’ global interests. *See, e.g.*, Department of State, Foreign Operations, and Related Programs Appropriations Act, 2024 (2024 SFOPS Appropriations), Div. F Pub. L. No. 118-47, 138 Stat. 460, 729-47 (Title I appropriates funds for the Department of State, Title II appropriates operational funds for USAID, and Title III appropriates funds for Bilateral Economic Assistance, much of which is apportioned directly to USAID for programmatic funding). Indeed, Congress recently passed a full-year continuing resolution to fund USAID at the exact same levels as last year and to maintain its status as a distinct entity. *See* Full-Year Continuing Appropriations Act, 2025 (2025 Continuing Resolution), Div. A Pub. L. No. 119-4, §§ 1101(a) & (a)(11) (directing same level of appropriations “under the authority and conditions provided in applicable appropriations Acts for fiscal year 2024”). These acts include countless examples—Development Assistance, International Disaster Assistance, and the Complex Crisis Fund, to name a few—where specified Bilateral Economic Assistance “shall be apportioned to the United States Agency for International Development,” underscoring Congress’s unequivocal will that these programmatic functions be managed *by USAID*. *See* 2024 SFOPS Appropriations, 138 Stat. 740-43.

Defendants now seek to undo Congress’s acts establishing USAID as an agency independent from the Department of State with its own appropriations and specific statutory mandates. They cannot do so under the Constitution.

## **II. Only Congress has the power to shutter USAID or fold it into the Department of State.**

Defendants are engaged in a swift and concerted campaign to undermine USAID’s ability to do its work and, ultimately, dismantle the agency and transfer what remains to the Department

of State. Two months into this campaign and after effectively accomplishing their goal, Defendants now attempt to provide legal cover for their actions by sending what they claim is a notification under §§ 7015 and 7063. Too little, too late. Even if they had engaged Congress in a timely manner (which they did not), notification of a decision already made does not meet the statutory requirement for meaningful consultation and an opportunity for engagement and feedback. And in any event, Defendants' actions go far beyond mere reorganization. The executive branch cannot unilaterally eliminate a statutorily created independent agency with a separate appropriation under the Constitution, and Defendants' belated feint towards compliance with statutory requirements cannot remedy their complete disregard for foundational constitutional limitations.

On the first day of his term, President Trump issued an executive order freezing aid programs for 90 days.<sup>7</sup> To implement that order, Secretary of State Marco Rubio required USAID staff to suspend all new funding obligations and to issue sweeping stop-work orders for nearly all foreign aid already approved by Congress.<sup>8</sup> Defendants then turned to the agency's workforce, furloughing hundreds of contractors and placing nearly 60 senior employees on administrative leave at the end of January.<sup>9</sup> By the third week of February, virtually all employees, including those overseas, were notified that they had been placed on administrative leave and more than 1,600 employees also received "reduction in force" (RIF) notices.<sup>10</sup> Now, there are just 869

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<sup>7</sup> *Reevaluating and Realigning United States Foreign Aid*, Exec. Order No. 14169, 90 Fed. Reg. 8619 (Jan. 20, 2025), <https://tinyurl.com/5n8xdcfp>.

<sup>8</sup> Dep't of State, Memo., *Executive Order on Review of Foreign Assistance Programs*, 25 STATE 6828, ¶¶ 1, 7 (Jan. 24, 2025).

<sup>9</sup> Anna Gawel, *Furloughs hit hundreds of USAID contractors*, Devex (Jan. 29, 2025), <https://tinyurl.com/ycxpb54h>; Elissa Miolene & Adva Saldinger, *Senior USAID officials put on leave amid fallout from executive order*, DEVEX (Jan. 28, 2025), <https://tinyurl.com/ycxr98mj>.

<sup>10</sup> Fatma Tanis & Melody Schreiber, *Trump officials will put 4,700 USAID employees on leave and eliminate 1,600 jobs*, NPR (Feb. 24, 2025), <https://tinyurl.com/mr368sp6>; see also USAID, *Notification of Administrative Leave* (archived on Feb. 23, 2025), <https://tinyurl.com/yc2syes4>.

USAID personnel working<sup>11</sup>—far too few to ensure project compliance with everything from procurement and grantmaking rules to anti-terrorism and partner vetting requirements. Although this present situation is non-functional, the future is untenable: On March 28, a senior official in the Department of State informed Congress of its plan to terminate “substantially all USAID personnel” by July 1, 2025.<sup>12</sup> The same day, all USAID personnel received an email titled, “USAID’s Final Mission,” before additional RIF notices went out to agency employees.<sup>13</sup>

In the meantime, Defendants took other steps to make it functionally impossible for USAID to do its statutorily required work. USAID’s website has been taken down,<sup>14</sup> employees have been locked out of their work accounts,<sup>15</sup> and its payment system was “nonfunctional” for weeks<sup>16</sup> and is now apparently online but processing payments at an alarmingly slow rate<sup>17</sup>—stalling the distribution of already-allocated funding to programs that rely on USAID funding. The delay in funding led some organizations to fold.<sup>18</sup> And even for organizations that have not officially closed, the practical lack of funding, coupled with the mass layoffs, means next-to-no programming has been carried out, even by those providing life-saving humanitarian aid that

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<sup>11</sup> Memo. from Ryan Shrum, Senior Advisor for Legislative & Congressional Affairs to Members of Congress (Mar. 24, 2025).

<sup>12</sup> “Congressional Notification Transmittal Letter” from Paul Guaglianone, Senior Bureau Official, Bureau of Legislative Affairs, U.S. Dep’t of State (Mar. 28, 2025).

<sup>13</sup> Karoun Demirjian, et al., *Final Cuts Will Eliminate U.S. Aid Agency in All but Name*, N.Y. Times (Mar. 28, 2025), <https://tinyurl.com/5n8d8aj2>; Memo. from Jeremy Lewin, PTDO Dep’y Admin. & Chief Op. Off., USAID, to all USAID Personnel (Mar. 28, 2025), <https://tinyurl.com/2ysu7apu>.

<sup>14</sup> Edward Helmore, *USAID website offline as Trump moves to put agency under state department*, The Guardian (Feb. 1, 2025), <https://tinyurl.com/25buz7mx>.

<sup>15</sup> Michael R. Gordon, et al., *Marco Rubio Wants USAID to Undergo Overhaul, Backs Off Sudden Shutdown*, Wall St. J. (Feb. 3, 2025), <https://tinyurl.com/39s7nw83>.

<sup>16</sup> Charlie Savage, *Trump Team Finds Loophole to Defy Spirit of Court Orders Blocking Spending Freezes*, N.Y. Times (Feb. 19, 2025), <https://tinyurl.com/yc4v363n>.

<sup>17</sup> *AIDS Vaccine Advocacy Coal. v. U.S. Dep’t of State*, -- F.Supp.3d --, 2025 WL 752378, at \*5 (D.D.C. Mar. 10, 2025).

<sup>18</sup> Shrum Memo., *supra* n.11.

Defendants purported to exclude from the initial funding freeze.<sup>19</sup> Defendants also closed USAID’s headquarters in early February, terminating the lease and barring employees from entering.<sup>20</sup>

Finally, even as Secretary Rubio announced that the agency had cancelled 83% of its foreign aid contracts, grants, and other awards, another judge in this Court ordered Defendants to stop withholding funds already allocated by Congress.<sup>21</sup> Given the widespread cancellations, however, it is unclear whether it is possible for USAID to distribute the appropriated funds—even assuming the agency still had a functioning payment system or staff to manage project implementation and compliance. Without ongoing programs, sufficient staff, or the ability to make payments, USAID’s work has ground to a halt.<sup>22</sup>

The intent is clear: shutter USAID, first practically and then, only after that is accomplished, formally. Elon Musk, who holds himself out as leading the so-called Department of Government Efficiency (DOGE), posted to his social media, “USAID is a criminal organization. Time for it to die.”<sup>23</sup> He has described DOGE’s work at the agency—terminating contracts, closing headquarters, dismantling payment systems, and more—as “feeding USAID to the wood chipper.”<sup>24</sup> He has repeated this refrain, saying “the world will be better” because “DOGE can now DISMANTLE USAID.”<sup>25</sup> President Trump has confirmed this goal, posting to his social

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<sup>19</sup> *AIDS Vaccine*, 2025 WL 752378, at \*11.

<sup>20</sup> Richard Luscombe, *Marco Rubio declares himself head of USAID as workers locked out of office*, *The Guardian* (Feb. 3, 2025), <https://tinyurl.com/rwk3zed2>.

<sup>21</sup> Zach Montague, *Judge Orders U.S.A.I.D. and State Dept. to Pay Funds ‘Unlawfully’ Withheld*, *N.Y. Times* (Mar. 10, 2025), <https://tinyurl.com/4asys5c8>; *AIDS Vaccine*, 2025 WL 752378, at \*22-23.

<sup>22</sup> Karoun Demirjian, et al., *Lifesaving Aid Remains Halted Worldwide Despite Rubio’s Promise*, *N.Y. Times* (Feb. 12, 2015), <https://tinyurl.com/28u4f7ad>.

<sup>23</sup> @elonmusk, X (Feb. 2, 2025, 12:20 PM), <https://tinyurl.com/44m8cjkk>.

<sup>24</sup> *See Musk*, *supra* n.3.

<sup>25</sup> @elonmusk, X (Feb. 21, 2025, 3:58 PM), <https://tinyurl.com/bdf6apbw>.

media, “CLOSE IT DOWN!” in reference to USAID<sup>26</sup> and then celebrating, “we have effectively eliminated the U.S. Agency for International Development.”<sup>27</sup> Secretary Rubio has claimed similarly that, following Defendants’ actions, the “era” of USAID “is now over.”<sup>28</sup>

Defendants seek to do what only Congress can: amend the law that established USAID as an independent agency and the appropriations bills that mandate it be funded with its own appropriation. Under the Constitution’s foundational separation of powers, USAID must continue to exist, distinct from the Department of State, until Congress decides otherwise.

“The President’s power, if any, to issue [an] order must stem either from an act of Congress or from the Constitution itself.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). As to the latter, Article I vests “All legislative Powers” in Congress, U.S. CONST., art. I, § 1, which includes the power to create independent agencies, subject to the limitation of the executive’s Article II power of removal. *See, e.g., Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 204, 205 (2020); *Free Enter. Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 483 (2010) (“Congress can . . . create independent agencies[.]”); *Myers v. United States*, 272 U.S. 52, 129 (1926) (“To Congress under its legislative power is given the establishment of offices, the determination of their functions and jurisdiction[.]”). When Congress has enacted a statute pursuant to its legislative power, “no provision in the Constitution [] authorizes the President to enact, to amend, or to repeal statutes,” *Clinton v. City of New York*, 524 U.S. 417, 438 (1998), including FARRA, the statute establishing USAID as an independent agency. That power rests with Congress, and Congress alone. *See INS v. Chadha*, 462 U.S. 919, 954 (1983) (The “repeal of

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<sup>26</sup> *See* Demirjian, *supra* n.3.

<sup>27</sup> *Remarks by President Trump*, *supra* n.4.

<sup>28</sup> *See* Emily Davies, et al., *Trump administration moves to formally abolish USAID*, The Washington Post (Mar. 28, 2025), <https://tinyurl.com/49napdy5>.



statutes, no less than enactment, must conform with Art. I.”); *Helvering v. Or. Mut. Life Ins. Co.*, 311 U.S. 267, 272 (1940) (concluding that “only Congress can take away” a statutory right).<sup>29</sup>

Congress retains “All legislative powers” even when the substantive issue in question involves foreign policy. As the Supreme Court affirmed in *Zivotofsky v. Kerry*, 576 U.S. 1 (2015), “whether the realm is foreign or domestic, it is still the Legislative Branch, not the Executive Branch, that makes the law.” *Id.* at 21. Defendants therefore are “not free from the ordinary controls and checks of Congress merely because foreign affairs are at issue.” *Id.*

There is no statutory basis for Defendants’ actions either. There “is no statute that expressly authorizes the President” to dissolve USAID or unilaterally transfer its functions to other agencies, and there is no “act of Congress . . . from which such a power can fairly be implied.” *See Youngstown*, 343 U.S. at 585. To the contrary, FARRA is unequivocal that “there is within the Executive branch of Government the [USAID].” 22 U.S.C. § 6563. And while Congress granted the president the time-limited authority to eliminate USAID or transfer its functions elsewhere when codifying USAID as an independent agency, that grant expired in 1999. *Id.* § 6601(a). Congress has not delegated such authority to the president again. And, by rejecting later efforts to eliminate USAID wholesale, Congress has made clear its determination that the agency must continue to exist. *See Youngstown*, 343 U.S. at 586; *see, e.g.*, H.R. 5108, 118th Cong. § 2 (2023).

A president does have authority to make some structural adjustments to agencies, including USAID and its relationship with the Department of State—but only so long as those changes are consistent with existing statutory mandates requiring the continued existence of an independent

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<sup>29</sup> Although not the subject of this litigation, Article I also vests Congress with “exclusive power over the federal purse,” *see U.S. Dep’t of Navy v. Fed. Labor Relations Auth.*, 665 F.3d 1339, 1346 (D.C. Cir. 2012) (Kavanaugh, J.) (citation omitted)—power Congress has exercised repeatedly when passing appropriations bills that mandate that USAID be funded as an independent agency with its own appropriation. *See AIDS Vaccine*, 2025 WL 752378, at \*16.

agency. And beyond mandating USAID's existence, Congress has specifically circumscribed the president's ability to unilaterally reorganize the agency. During his first administration, President Trump contemplated eliminating funding for large portions of USAID and transferring many of its functions to the Department of State.<sup>30</sup> That idea did not, however, gain traction.<sup>31</sup> Even so, Congress responded in its 2017 fiscal year appropriations by explicitly specifying a role for itself in any reorganization of USAID, including the transfer of functions from USAID to the Department of State. In particular, Congress required the Secretary of State to provide "detailed justification and analysis" to Congress "[p]rior to any reorganization" of USAID. Consolidated Appropriations Act, 2017, Div. J Pub. L. No. 115-31, § 7034(1), 131 Stat. 135, 652; *id.* § 7076(a)(2) (requiring USAID to "submit to the Committees on Appropriations a report detailing any planned reorganization"). Around the same time, the first Trump Administration acknowledged that its proposed reorganizations would either need to be consistent with existing statutory mandates or "require a change in law by Congress."<sup>32</sup>

Congress built upon these requirements in the next year's appropriations, requiring not just detailed reporting but "prior consultation" before any reorganization of USAID. In the Consolidated Appropriations Act, 2018, Congress prohibited using appropriated funds "to implement a reorganization, redesign, or other plan" for USAID "without prior consultation by the head of such department, agency, or organization with the appropriate congressional committees." Div. K, Pub. L. No. 115-141, § 7081(a)(1), 132 Stat. 348, 962-63. Congress clarified that a

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<sup>30</sup> Bryant Harris, et al., *The End of Foreign Aid as We Know It*, Foreign Policy (April 24, 2017), <https://tinyurl.com/23dfz7t8>.

<sup>31</sup> Nahal Toosi & Burgess Everett, *Source: Trump wants 37 percent budget cut to State, USAID*, Politico (Feb. 28, 2017), <https://tinyurl.com/mryy73c8>.

<sup>32</sup> *The Department of State Redesign Before the H. Comm. on Foreign Affairs*, 115th Cong. (2017) (statement of John J. Sullivan, Deputy Secretary of State), <https://tinyurl.com/2mte2khv>.

“reorganization, redesign, or other plan” includes “any action” to “expand, eliminate, consolidate, or downsize covered departments, agencies, [ ] organizations,” or “the United States official presence overseas,” and “any action” to “reduce the size” of USAID’s workforce from the “on-board levels as of December 31, 2017.” *Id.* § 7081(a)(2). The act also provided that funds could not be available for obligation to “suspend or eliminate a program, project, or activity,” “close, suspend, open, or reopen a mission or post,” or “create, close, reorganize, downsize, or rename bureaus, centers, or offices” unless “previously justified to the Committees on Appropriations or such Committees are notified 15 days in advance of such obligation.” *Id.* § 7015(a).

These limits on executive reorganizations remain today. In its fiscal year 2024 appropriation for USAID, which was carried forward in March 2025 for the remainder of fiscal year 2025, Congress again specifically prohibited the use of appropriated funds to reorganize USAID absent a detailed justification and prior consultation with Congress. *See* 2024 SFOPS Appropriations, § 7063 (continued in effect by the 2025 Continuing Resolution, § 1101(a)(11)).

Defendants’ efforts are in knowing violation of the statutory mandates establishing and funding USAID as an independent agency and prohibiting its reorganization without prior consultation. They have gutted USAID, eliminating the vast majority of its workforce, contracts, and infrastructure to make payments or monitor programs on the ground—actions that both trigger the notification and consultation requirements of §§ 7015 and 7063 and run counter to the statutory establishment of an independent agency. In the midst of these actions, Secretary Rubio notified Congress that he had authorized a “review and potential reorganization of USAID’s activities”—which “may include” a reorganization, transfer of agency functions to the Department of State,

and abolition of the “remainder” of the agency—purportedly “[i]n consultation with Congress.”<sup>33</sup> And while Secretary Rubio emphasized his “intent to initiate consultations” with Congress pursuant to §§ 7015 and 7063, and members of Congress have reached out repeatedly,<sup>34</sup> Defendants persisted in dismantling USAID without explanation, let alone the statutorily required “detailed justifications.” Instead, Secretary Rubio publicly announced in mid-March that the agency’s remaining work would be absorbed by the Department of State.<sup>35</sup> Since then, Congress received, on March 24, a short memo and spreadsheet listing the foreign aid projects that USAID officials assert will continue and those that will not.<sup>36</sup> It was only on March 28—*after* Defendants claimed victory in their efforts to dismantle USAID—that an official from the Department of State provided what purports to be a notification under §§ 7015 and 7063 regarding plans to transfer certain USAID functions to the Department of State before shuttering the agency.<sup>37</sup> Of course, meaningful “consultation” and an opportunity for feedback from Congress requires more than this “notification,” after the fact, of decisions already made and being implemented. But even if the Secretary’s mid-stream letter, the cursory memo, or this afterthought of a notification had complied with statutory requirements—and they did not—there is a constitutional limit to the structural

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<sup>33</sup> Letter from Marco Rubio, Sec’y of State, to Gregory Meeks, Ranking Member, House Comm. on Foreign Affairs (Feb. 3, 2025).

<sup>34</sup> *See, e.g.*, Letter from Lois Frankel, Ranking Member, Appropriations Subcomm. on Nat’l Sec. Dep’t of State, and Related Programs, et al. to Marco Rubio, Sec’y of State (Feb. 27, 2025), <https://tinyurl.com/ymwbsetn>; Letter from Jeanne Shaheen, Ranking Member, Senate Foreign Relations Comm., U.S. Senate & Gregory W. Meeks, Ranking Member, Foreign Affairs Comm., U.S. House of Representatives, et al. to Jason Gray, Acting Adm’r, USAID (Jan. 31, 2025), <https://tinyurl.com/2udh63ym>; Letter from Gregory W. Meeks, Ranking Member, Foreign Affairs Comm. & Lois Frankel, Ranking Member, Appropriations Subcomm. on Nat’l Sec. Dep’t of State, and Related Programs to Marco Rubio, Sec’y of State (Jan. 24, 2025), <https://tinyurl.com/bzv7xd66>.

<sup>35</sup> Karoun Demirjian, *For Musk and Rubio, Public Niceties After a Private Clash*, N.Y. Times (Mar. 10, 2025), <https://tinyurl.com/46zvu3v5>.

<sup>36</sup> Shrum Memo., *supra* n.11.

<sup>37</sup> Guaglianone Letter, *supra* n.12.

changes a president can unilaterally make to a statutorily created agency like USAID. The Trump Administration knows this. The March 28 letter anticipates “proposing legislation to abolish USAID as an independent establishment.” *Id.* But, as a document leaked earlier by Trump Administration officials acknowledged, “making [a reconstituted USAID] a permanent subsidiary agency of the Department of State would require Congress to amend the Foreign Affairs Reform and Restructuring Act of 1998, the Foreign Assistance Act [of 1961], the Pay Act, and long-standing provisions of the annual Appropriations Acts.”<sup>38</sup> None of that has happened.

Without power “from the Constitution itself” or “an act of Congress,” *Youngstown*, 343 U.S. at 585—both of which are wholly lacking here—a president who disagrees with a law enacted by Congress is “limit[ed] . . . to the recommending of laws he thinks wise and the vetoing of laws he thinks bad,” *id.* at 587. In other words, President Trump must participate in the political process and adhere to our constitutional structure, not simply ignore these boundaries and barrel ahead on the assumption that Congress will retroactively rubberstamp his actions. Unless and until Congress changes the laws, President Trump must follow them. To the extent his Administration believes USAID should be so extensively restructured, it must make its case to Congress. It cannot, as the March 28 letter plans, act first and seek permission later.

Our country’s history includes numerous examples of the branches working together to restructure or eliminate a statutorily created agency. FARRA is one. In response to a proposal from the Clinton Administration, the Act preserved USAID’s independence but eliminated two agencies, the Arms Control and Disarmament Agency and the U.S. Information Agency, and transferred their

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<sup>38</sup> See Nahal Toosi & Daniel Lippman, *Trump aids circulate plan for complete revamp of foreign aid programs*, Politico (Mar. 19, 2025), <https://tinyurl.com/39r35ut3>; *Designing a New U.S. International Assistance Architecture* at 1, 10, <https://tinyurl.com/mveyeykw>.

functions to the Department of State. *See* 22 U.S.C. §§ 6511-6512, 6531-6532.<sup>39</sup> Similarly, following the attacks of September 11, 2001, Congress passed the Homeland Security Act of 2002 to bring together the national security functions of disparate agencies under the umbrella of the newly created Department of Homeland Security, abolishing some agencies in the process. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 441, 451(b), 471, 116 Stat. 2135, 2192, 2196, 2205. A third example comes from the first Trump Administration. President Trump initially supported shuttering the Overseas Private Investment Corporation (OPIC) but, after consultation with Congress, he sought instead to create a new agency to mobilize private capital overseas to advance foreign policy.<sup>40</sup> Congress agreed, eliminating OPIC and the Development Credit Authority, which had been housed within USAID, and transferring certain of their functions into the new Development Finance Corporation. *See* Better Utilization of Investment Leading to Development Act of 2018, Div. F Pub. L. No. 115-254, Div. F 132 Stat. 3485 (codified at 22 U.S.C. § 9601 *et seq.*). All three of these changes, made to advance the United States' foreign policy and security, followed exhaustive legislative processes with significant executive input *before* agencies were eliminated, exemplifying how our constitutional system is intended to operate.

Here, however, rather than trying to persuade Congress to exercise *its* authority to dismantle USAID or subsume the agency within the Department of State, President Trump seeks to evade that well-established process with an unconstitutional power grab. That cannot stand.

### **III. Congress Relies on USAID to Further the United States' National Security Interests.**

Not only is unilaterally dismantling USAID beyond Defendants' authority, but it already has had and will continue to have severe consequences. Since 1961, USAID has used foreign aid

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<sup>39</sup> *See also* Nowels, *supra* n.5.

<sup>40</sup> Glenn Thrush, *Trump Embraces Foreign Aid to Counter China's Global Influence*, N.Y. Times (Oct. 14, 2018), <https://tinyurl.com/4tu2yf6p>.

to further the country’s national security objectives. USAID assistance has worked to counter the geopolitical power of China, Russia, and Iran, prevent terrorism directed at the United States, prevent the need for military deployments, reduce migration across the southern border, and prevent disease and bioterrorism from reaching the United States. With bipartisan support, Congress has continued to provide appropriations and to prohibit major changes to the agency without detailed justification precisely because USAID’s work is such a critical national security tool. Dismantling USAID puts the country’s national security—and all Americans—at risk.

In President Kennedy’s 1961 message to Congress, he explained that foreign aid “must continue because the nation’s interest . . . require[s] it.”<sup>41</sup> That is because “widespread poverty and chaos”—which USAID was established to alleviate—“lead to a collapse of existing political and social structures,” and, in turn, “our own security would be endangered and our prosperity imperiled.” *Id.* In enacting the FAA that same year, Congress similarly explained that foreign aid promotes “the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security.” FAA, 75 Stat. 424. “[T]he individual liberties, economic prosperity, and security of the people of the United States are best sustained” when other nations are stable. 22 U.S.C. § 2152(a).

While the geopolitical climate has changed since the 1960s Cold-War era, the role of the United States’ foreign aid has remained the same: providing humanitarian, development, infrastructure, governance, and other assistance to stabilize struggling countries and expand American influence and goodwill. Or, as Former Democratic Representative Steve Israel put simply, “[w]e use aid incentives not merely to make the world a better place, but also because it

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<sup>41</sup> *President Kennedy’s Special Message, supra* at 5.

makes us safer.”<sup>42</sup> That understanding of USAID’s role crosses party lines. Former Republican Representative Charlie Dent recently explained that “[m]oney spent on USAID is an effective investment in stability, security, and economic growth[]” because “[w]eak and failing states are breeding grounds for terrorism, drug trafficking and mass migration. By addressing root causes of instability, USAID helps prevent crises before they require costly U.S. military intervention.”<sup>43</sup>

*Amici* have overseen USAID not only from the halls of Congress but also from agency-funded refugee camps, schools, hospitals, and disaster recovery sites around the world. Congressional visits to USAID sites have confirmed members’ understanding of foreign aid as a tool to advance the United States’ interests and protect its shores. Shortly after Russia invaded Ukraine, Democratic Representative Gregory W. Meeks, Ranking Member of the House Foreign Affairs Committee, led a bipartisan delegation to USAID sites along the border of Poland and Ukraine. There, he saw how USAID humanitarian assistance to those fleeing Ukraine solidified the resolve and cooperation of the United States and its European allies to together end Russia’s aggression.<sup>44</sup> Similarly, Former Democratic Representative Israel observed firsthand that investing in building a stronger community can serve as a bulwark against exploitation by terror groups after visiting a girls’ school in Pakistan rebuilt by USAID after a devastating earthquake.<sup>45</sup> In his words, “when bad actors sought to indoctrinate citizens with anti-American hate, they would find it a tougher sell with an audience that knew the country that had built their school was no villain.” *Id.*

The ground-level work of USAID is so powerful, it turns skeptics into supporters. Former

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<sup>42</sup> Steve Israel, *USAID makes America safer*, The Hill (Feb. 7, 2025), <https://tinyurl.com/2a8wzyu3>.

<sup>43</sup> Charlie Dent, *Shuttering USAID is a win for China and a loss for America*, The Hill (Feb. 10, 2025), <https://tinyurl.com/msrnm2vn>.

<sup>44</sup> Press Release, Chairman Meeks Issues Statement on CODEL to Ukraine and Poland, House Foreign Affairs Comm. (May 2, 2022), <https://tinyurl.com/47zdsd8k>.

<sup>45</sup> Israel, *supra* n.42.



Republican Representative Ted Yoho came to Congress skeptical of USAID's programming, believing it to be a "reckless extravagance that blew American tax dollars on vanity projects."<sup>46</sup> But after his "first foreign congressional delegation trips to Africa and Latin America," he came to understand "that foreign assistance, when structured and deployed correctly, is a uniquely powerful soft diplomacy tool to strengthen the nation's economy and national security." *Id.*

Intense geopolitical competition only makes the importance of USAID's work more pronounced. In today's climate, furthering the United States' national security interests includes countering the efforts of China, Russia, and Iran to exert their influence on countries in need of aid and investment. These countries have particularly focused on regions with critical natural resources, such as "gas and oil reserves and deposits of the minerals used in high-tech industries, including copper, cobalt, and lithium, in an effort to dominate access to these resources and deny them to the United States and its allies."<sup>47</sup>

To achieve that influence, not only does China now have a USAID copycat—the China International Development Cooperation Agency (China Aid)—but it has spent over a trillion dollars investing in special economic zones as well as infrastructure like roads, bridges, ports, energy development, and wireless services throughout Asia, Eastern Europe, Africa, Oceania, and Latin America as part of its Belt and Road Initiative (BRI).<sup>48</sup> BRI is designed to position China—and not the United States—as the global center of trade, and to wield leverage over BRI countries' policies. *Id.* To that end, the terms of BRI infrastructure loans give China substantial control over

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<sup>46</sup> Ted Yoho, *I Came to Congress to Gut Foreign Aid. I Was Wrong*, Time (Feb. 13, 2025), <https://tinyurl.com/bdz8375u>.

<sup>47</sup> Andrew Natsios, *Don't Gut USAID: Trump Should Refashion the Foreign Aid Agency, Not Dismantle It*, Foreign Affairs (Feb. 7, 2025), <https://tinyurl.com/bp5dazm9>.

<sup>48</sup> James McBride, et al., *China's Massive Belt and Road Initiative*, Council on Foreign Relations (Feb. 2, 2023), <https://tinyurl.com/yexfm63w>.

debtor countries' bank accounts and domestic and foreign policies—and have been criticized as creating a debt-trap for less developed countries that have few options to secure funding for needed projects.<sup>49</sup> The starkest contrast between Chinese debt-trap diplomacy and American investment in global development is that China offers approximately \$9 of debt per every dollar of aid while the United States has traditionally provided \$9 of aid for every dollar of debt.<sup>50</sup>

Indeed, USAID has been one of the major ways in which the United States has worked to counter Chinese influence globally. For fiscal years 2024 and 2025, Congress appropriated \$400 million for the Countering PRC Influence Fund (CPIF), which, among other things, offers infrastructure alternatives to BRI and works to expand critical mineral exports to the United States from sources not controlled by China. *See* 2024 SFOPS Appropriation, § 7043(c)(2); 2025 Continuing Resolution, § 1101(a)(11). Around 50 percent of CPIF appropriations went to USAID, which expanded its efforts to reduce the influence of BRI by promoting good governance, supporting counties renegotiating crippling BRI debt, and diversifying sources of critical mineral imports into the United States.<sup>51</sup> Such efforts are critical because “American support for systems of oversight, accountability, and sustainable economic and environmental decisions helps prevent China from entrapping countries in debt and diplomatic subservience and from monopolizing critical minerals or strategic access points.”<sup>52</sup>

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<sup>49</sup> *Id.*; see generally Anna Gelper, et al., *How China Lends: A Rare Look into 100 Debt Contracts with Foreign Governments*, Ctr. for Global Dev. (Mar. 2021), <https://tinyurl.com/3bm4vz4y>.

<sup>50</sup> *USAID's Foreign Policy and International Development Priorities in the Era of Great Power Competition Before the H. Comm. on Foreign Affairs*, 118th Cong. (2024) (remarks by Samantha Power, USAID Administrator), <https://tinyurl.com/4m4ypy8e>.

<sup>51</sup> E. Rosalie Li, *Aid, Trade, & Shade: China's USAID Ambitions*, The Information Epidemiology Lab (Mar. 20, 2025), <https://tinyurl.com/7d53pe97>.

<sup>52</sup> Vanda Felbab-Brown, *Abolishing USAID hurts multiple US priorities*, Brookings (Feb. 4, 2025), <https://tinyurl.com/mr3hs2z2>.

Where USAID retreats, China is quick to swoop in. In 2012, USAID closed its mission in Panama.<sup>53</sup> When the Panama Canal—a critical international shipping route—suffered water shortages a few years later, it was China that stepped in to provide infrastructure support.<sup>54</sup> Similarly, in Cambodia, China has been quick to replace USAID funding (that was frozen by Defendants) for mine-clearing efforts.<sup>55</sup> And while USAID no longer has the capacity to quickly respond to last week’s devastating earthquake in Myanmar, China is lining up to assist.<sup>56</sup> Colombia, which had been receiving up to \$440 million annually in USAID assistance, last month announced that it would be opening a commercial route between its largest port and Shanghai and made a significant move toward joining BRI.<sup>57</sup> Shuttering USAID gives China, “our greatest strategic competitor,” such openings everywhere, and China has shown every indication it is poised to take them.<sup>58</sup> Indeed, there are reports that human rights groups that previously received USAID funding have already been approached by people linked to the Chinese government offering to connect the groups to funding.<sup>59</sup> In short, shutting down USAID would “hand a major victory to China.”<sup>60</sup>

Russia would benefit too. In particular, USAID’s governance and media projects in Eastern Europe and Central Asia provide critical support for those regions’ efforts to reduce Russian

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<sup>53</sup> See Andrew Natsios, *Establishing the North American Disease Defense Shield (NADDS) at the Panama-Columbia Border* 8 (2021), <https://tinyurl.com/2swv63cp>.

<sup>54</sup> See Natsios, *Don’t Gut USAID*, *supra* n.47.

<sup>55</sup> Som Sotheary, *China provides \$4.4 million more in demining amid USAID funding freeze*, Khmer Times (Feb. 7, 2025), <https://tinyurl.com/3mmhykdf>.

<sup>56</sup> Davies, *supra* n.28.

<sup>57</sup> See Alfie Pannell, *USAID suspension shuttering Colombia programs, endangering FARC peace deal*, Reuters (Mar. 18, 2025), <https://tinyurl.com/3sjc4krj>; see also Mara Rudman, *Against the Executive Sledgehammer*, The Dispatch (Feb. 21, 2025), <https://tinyurl.com/4acx9zur>.

<sup>58</sup> Dent, *supra* n.43.

<sup>59</sup> Emily Feng, *China sees an opportunity as the U.S. cuts aid to groups around the world*, NPR (Feb. 20, 2025), <https://tinyurl.com/yc623kwa>.

<sup>60</sup> Dent, *supra* n.43.

control.<sup>61</sup> These USAID programs had been successful at “mitigat[ing] Russia’s pernicious influence,” but would leave a vacuum that Russia would be eager to fill if they disappeared.<sup>62</sup> Already, in Armenia, Defendants’ funding freezes have resulted in independent media cutting programming—allowing Russian media to fill the gaps left behind.<sup>63</sup> And in Africa, a government-backed Russian organization publicized handing out critical tuberculosis and HIV medications in the Central African Republic directly on the heels of USAID closures.<sup>64</sup>

Closer to home, USAID also reduces illegal border crossings into the United States. “In Central America and the Caribbean, state weakness is a key driver of illegal migration into the United States. U.S. aid programs that improve governance, produce economic growth and new jobs, and extend health care and education can reduce the incentives for people to migrate.”<sup>65</sup> For example, USAID programs have worked to increase trade and development in and between El Salvador, Honduras, and Guatemala to boost local economic growth, job creation, and investment.<sup>66</sup> As another example, in an area especially prone to migration in Guatemala, USAID agricultural programming helped increase local farmers’ sales by over 50% and created 20,000 jobs in agriculture.<sup>67</sup> And USAID economic and anti-gang programs have contributed to a delicate

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<sup>61</sup> Kimberlee Kruesi, *From fighting disease to protecting the Amazon rainforest, USAID has big impact across the globe*, The Associated Press (Feb. 6, 2025), <https://tinyurl.com/4kz8wpry>.

<sup>62</sup> See Felbab-Brown, *supra* n.52.

<sup>63</sup> See Kruesi, *supra* n.61.

<sup>64</sup> Katharine Houreld & Robyn Dixon, *Trump’s global funding cuts leave a void in Africa for rivals to exploit*, The Washington Post (Mar. 25, 2025), <https://tinyurl.com/mr2vm5zt>.

<sup>65</sup> See Natsios, *Don’t Gut USAID*, *supra* n.47.

<sup>66</sup> *U.S. Launches Regional Trade and Investment Project to Boost Economic Growth in Central America*, U.S. Embassy El Salvador (Oct. 18, 2024), <https://tinyurl.com/2hmuxzxw>.

<sup>67</sup> *Fact Sheet: U.S. Assistance to Central America Promotes Security, Economic Development, and Rule of Law*, U.S. Global Leadership Coalition (Apr. 2021), <https://tinyurl.com/ys4nh6ez>.

peace with guerrilla forces in Colombia.<sup>68</sup> By addressing the root causes of migration, USAID has long been a cost-effective tool for promoting border security.

Where migrants have already fled their home countries, USAID missions work to provide stability to encourage them to “rebuild their lives where they are” rather than cross the border into the United States.<sup>69</sup> For example, in an effort praised by Secretary Rubio, U.S. assistance provided access to “sustainable livelihoods and employment opportunities” for Venezuelans in Brazil;<sup>70</sup> helped 2.5 million Venezuelans access work, health care, and education in Colombia; and provided shelter, water, and sanitation to more than one million displaced Venezuelans in Lima, Peru.<sup>71</sup> Dismantling these programs would risk re-starting a flow of migrants to the United States’ border.

Shutting USAID also leaves the United States more vulnerable to global health epidemics as well as bioterrorism that may appear as an epidemic.<sup>72</sup> The former USAID acting assistant administrator for global health—pushed out by Defendants—predicts that, absent USAID, preventable illnesses will surge, both inside and outside the United States.<sup>73</sup> That is because USAID health programs “serve as an early warning system for disease threats that could turn into pandemics and spread to the United States.”<sup>74</sup> USAID has helped develop disease-tracking systems in 90 countries, and USAID is often the only U.S. agency tracking disease in a given

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<sup>68</sup> Pannell, *supra* n.57.

<sup>69</sup> *U.S. Humanitarian Assistance for the Western Hemisphere*, U.S. Embassy in Chile (May 7, 2024), <https://tinyurl.com/ymuwsddk>.

<sup>70</sup> *USAID and the International Organization for Migration (IOM) announce a \$4 million program to Venezuelan in Brazil*, U.S. Embassy & Consulates in Brazil (Jan. 29, 2020), <https://tinyurl.com/mwrm452j>; @SenMarcoRubio, X (Jan. 30, 2020, 8:36 AM), <https://tinyurl.com/nuv5ttmk>.

<sup>71</sup> *U.S. Humanitarian Assistance for the Western Hemisphere*, *supra* n.69.

<sup>72</sup> Memo. from Nicholas Enrich, Acting Assistant Adm’r for Global Health 4, 6-7, 10 (Mar. 4, 2025), <https://tinyurl.com/2k5rjatu>.

<sup>73</sup> *See generally id.*; Sam Stein, *The Third Memo*, *The Bulwark* (Mar. 3, 2025), <https://tinyurl.com/muwrvtck>.

<sup>74</sup> Natsios, *Don’t Gut USAID*, *supra* n.47.

country. *Id.* Eliminating the country's ability to track public health trends does not pose purely hypothetical risks: As a result of Defendants' actions, USAID has been forced to pause programs monitoring bird flu outbreaks in 49 countries, even as bird flu spreads in the United States.<sup>75</sup>

These are just a few of the ways in which USAID's long-term development and humanitarian aid works to carry out the United States' national security objectives, and the ways in which terminating USAID's work has already had, and will continue to have, a direct impact on the health, safety, and security of people in the United States. By investing in the safety, security, and well-being of countries around the globe, USAID prevents terrorism, military conflict, and illegal migration; keeps open American access to international markets and critical natural resources; counters the influences of our greatest geopolitical competitors; and protects Americans from disease and bioterrorism. Because of its critical role in national security, Congress has long invested in USAID, and Defendants cannot unilaterally override that decision.

### CONCLUSION

For these reasons, the Court should grant Plaintiffs' motion for summary judgment.

Date: March 31, 2025

Respectfully submitted,

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<sup>75</sup> Michael Sheldrick, *The Truth About U.S. Foreign Aid: A Response To Secretary Marco Rubio*, Forbes (Feb. 5, 2025), <https://tinyurl.com/3r6rwdft>.

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with all the applicable requirements of LCvR 7(o), including all formatting requirements set forth in this rule. Specifically, the undersigned certifies that the brief complies with the applicable page limit set forth in LCvR 7(o) as it contains 25 pages. I acknowledge that my brief may be stricken if it fails to comply with any of the applicable requirements.

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| <b>193. Gabe Vasquez</b><br>Representative of New Mexico     |   |
| <b>194. Marc Veasey</b><br>Representative of Texas           |   |
| <b>195. Nydia M. Velázquez</b><br>Representative of New York |   |

# **EXHIBIT B**



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

American Foreign Service Association, *et al.*,

*Plaintiffs,*

v.

President Donald J. Trump, *et al.*,

*Defendants.*

Case No. 1:25-cv-00352-CJN

**[PROPOSED] ORDER**

On consideration of the Motion by 202 Members of Congress for leave to file an *amicus curiae* brief in support of Plaintiffs' motion for summary judgment, *see* ECF No. 51, and the entire record herein, it is hereby:

**ORDERED** that the motion is GRANTED. The Clerk of Court is directed to file the 202 Members of Congress' *Amicus Curiae* Brief in Support of Plaintiffs' Motion for a Preliminary Injunction, attached as Exhibit A, onto the electronic case docket in the above-captioned matter.

**SO ORDERED.**

This \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**BY THE COURT:**

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The Honorable Judge Carl N. Nichols  
United States District Court Judge