



November 22, 2023

**Via Web Portal Only**

U.S. Agency for International Development  
1300 Pennsylvania Avenue, NW  
USAID Annex, M/MS/IRD, Room 2.4.0A  
Washington, DC 20523

**RE: FOIA Request Regarding “Dissent Memo” of USAID employees**

Dear FOIA Officer:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations. The Request is made by the American Center for Law and Justice (“ACLJ”)<sup>1</sup> on behalf of its members.

To summarize, this Request seeks records pertaining to a “Dissent Memo” signed by USAID employees.

**Background**

Pursuant to USAID Department FOIA regulation 22 C.F.R. § 212.32, this Background contains a “reasonably specific description of the particular record sought so that a USAID officer who is familiar with the subject matter of the request may be able to locate the record with a reasonable amount of effort. A description that includes as much information as possible, such as the subject matter, format, approximate date and, where pertinent, the name of the country or person involved, will facilitate the search for the requested record.” 22 C.F.R. § 212.32

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<sup>1</sup>The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

*Axios* reported on November 13, 2023 that an “internal State Department dissent memo accuses President Biden of “spreading misinformation” on the Israel-Hamas war and alleges that Israel is committing “war crimes” in Gaza. . . .”<sup>2</sup>

The originator of the dissent memo is reportedly a “Sylvia Yacoub, a foreign affairs officer in the Bureau of Middle East Affairs for more than two years, sent an email Thursday [November 2, 2023] morning to gather signatures for the dissent cable.”<sup>3</sup>

It is reported to be signed by “. . . 100 State Department and USAID employees. . .” and “urges senior U.S. officials to reassess their policy toward Israel and demand a ceasefire in Gaza. . .”<sup>4</sup>

*Axios* says that the Memo or cable contained the following statement: “‘Yet we have failed to reassess our posture towards Israel,’ the memo states. ‘We doubled down on our unwavering military assistance to the (Israeli government) without clear or actionable redlines.’”<sup>5</sup>

This Request seeks information on the USAID employees who signed the dissent cable/memo.

### **Records Requested**

For purposes of this Request, the term “record” means “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, *e.g.*, electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

All requests seek records which include, but are not limited to, any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, USAID electronic mail or message accounts, non-USAID electronic mail or message accounts, personal electronic mail or message accounts, USAID servers, non-USAID servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or

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<sup>2</sup> Hans Nichols, *Scoop: Internal State Dept. Memo Blasts Biden, U.S. Policy on Israel-Hamas War*, AXIOS, <https://www.axios.com/2023/11/13/biden-gaza-hamas-policy-state-department-memo> (last updated Nov. 13, 2023).

<sup>3</sup> Hans Nichols & Barak Ravid, *Scoop: State Dept. Employee Accuses Biden of “Genocide” Amid Calls For Gaza Ceasefire*, AXIOS (Nov. 3, 2023), <https://www.axios.com/2023/11/04/genocide-biden-gaza-ceasefire>.

<sup>4</sup> Nichols, *supra* 2.

<sup>5</sup> *Id.*

message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

For purposes of this Request, the term “USAID official” includes, but is not limited to, any person who is (1) employed by or on behalf of the USAID, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the USAID, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the USAID, any Mission of the United States, or any Delegation of the United States; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

**For purposes of this Request, any individual or entity’s name includes any alias or pseudonym.**

**For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is November 1, 2023, to the date this request is processed.**

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that USAID produce the following:

1. **Any records containing the phrases: “we have failed to reassess our posture towards Israel” or “We doubled down on our unwavering military assistance to . . .”**
2. **The dissent cable or memorandum itself.**
3. **Any records from Sylvia Yacoub in the possession of USAID.**
4. **Any records in the custody of USAID’s Bureau for the Middle East about the dissent cable or memorandum.**

### **CONCLUSION**

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director  
Benjamin P. Sisney, Senior Litigation Counsel  
John A. Monaghan, Senior Litigation Counsel  
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jordan Sekulow".

Jordan Sekulow  
Executive Director

A handwritten signature in black ink, appearing to read "Ben P. Sisney".

Benjamin P. Sisney  
Senior Litigation Counsel

A handwritten signature in blue ink, appearing to read "John A. Monaghan".

John A Monaghan  
Senior Litigation Counsel