



March 11, 2025

VIA EMAIL

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

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

The U.S. Agency for International Development (USAID) is reportedly shredding classified documents and personnel records.¹ American Oversight seeks records with the potential to shed light on the directive to destroy government records.

Requested Records

American Oversight seeks expedited review of this request for the reasons identified below and requests that your office produce the following records as soon as practicable, and at least within twenty business days:

A copy of an email sent on or around March 10, 2025, by the Acting Executive Secretary at USAID stating in part, “Shred as many documents first, and reserve the burn bags for when the shredder becomes unavailable or needs a break.”²

¹ Sara Cook (@saraecook), X (formerly Twitter) (Mar. 11, 2025, 12:50 PM), <https://x.com/saraecook/status/1899503231765446853> (NEWS: “USAID staff have been instructed to clear out classified safes and personnel docs, per an email obtained by @CBSNews. ‘Shred as many documents first, and reserve the burn bags for when the shredder becomes unavailable or needs a break,’ the email reads.”).

² For further identifying information, *see id.*



Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."³ The public has a significant interest in the destruction of government records at USAID.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including what directives and guidance was provided to facilitate the destruction of government records at USAID. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request "is not primarily in the commercial interest of the requester."⁵ In fact, as a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose, and the release of the information requested is not in American Oversight's commercial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).⁶

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁷ Examples reflecting this commitment include the posting of records related to the first Trump Administration's contacts with Ukraine and analyses of those

³ 5 U.S.C. § 552(a)(4)(A)(iii).

⁴ *Supra* note 1.

⁵ 5 U.S.C. § 552(a)(4)(A)(iii).

⁶ American Oversight currently has approximately 16,000 followers on Facebook and 95,300 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 11, 2025); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Mar. 11, 2025).

⁷ *See generally News*, American Oversight, <https://www.americanoversight.org/blog>.

contacts;⁸ posting records and editorial content about the federal government's response to the COVID-19 pandemic;⁹ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the first Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁰ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;¹¹ and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹²

Accordingly, American Oversight qualifies for a fee waiver.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and 22 C.F.R. Part 212, American Oversight requests that your agency expedite the processing of this request.

On behalf of American Oversight, I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public concerning actual or alleged government activity.¹³ After a federal

⁸ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

⁹ See generally *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

¹⁰ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Audit the Wall: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://americanoversight.org/audit-the-wall-no-plans-funding-or-timeline-and-no-wall/>.

¹¹ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, <https://www.documentcloud.org/documents/25544090-doj-records-relating-to-solicitor-general-noel-franciscos-recusal-american-oversight>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹² See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

¹³ 22 C.F.R. Part 212.

freeze on U.S. foreign aid,¹⁴ the Trump Administration reportedly began to explore the possibility of shutting down USAID.¹⁵ On February 3, 2025, Elon Musk said that President Trump agreed that USAID needs to be “shut down,”¹⁶ and Secretary of State Marco Rubio announced himself as acting Administrator for USAID, indicating that USAID may be subsumed into the State Department.¹⁷ This news came amidst numerous reports on the global humanitarian, public health, and security impacts of the pause on U.S. foreign aid, all of which are potentially worsened by the dismantling of USAID.¹⁸ Now, reporting indicates that government records are actively being destroyed at USAID today, March 11, 2025.¹⁹ The American public is entitled to records responsive to American Oversight’s requests centered on the Trump administration’s destruction of government records, especially given the reported “chaos and confusion” at the longstanding government agency.²⁰

Moreover, I certify to be true and correct to the best of my knowledge and belief that there is an urgent need to inform the public about communications regarding the active destruction of federal records at USAID.

¹⁴ Ellen Knickmeyer & Farnoush Amiri, *State Department Freezes New Funding for Nearly All US Aid Programs Worldwide*, Assoc. Press (Jan. 24, 2025, 8:15 PM), <https://apnews.com/article/state-department-trump-foreign-aid-bf047e17ef64cb42a1a1b7fdf05caffa>.

¹⁵ Robbie Gramer et al., *Trump Is Wreaking Havoc at USAID. Is the Goal to Shut It Down?*, Politico (Jan. 31, 2025, 2:11 PM), <https://www.politico.com/news/2025/01/31/trump-usaid-shutdown-state-department-00201760>.

¹⁶ See, e.g., Jennifer Hansler et al., *Elon Musk Said Donald Trump Agreed USAID Needs to Be ‘Shut Down,’* CNN (Feb. 3, 2025, 7:48 AM), <https://www.cnn.com/2025/02/02/politics/usaid-officials-leave-musk-doge/index.html>.

¹⁷ Jennifer Hansler et al., *Rubio Says He’s Acting Director of USAID as Humanitarian Agency is Taken Over by the State Department*, CNN (updated Feb. 3, 2025, 2:20 PM EST), <https://www.cnn.com/2025/02/03/politics/usaid-washington-workers/index.html>.

¹⁸ See, e.g., Sui-Lee Wee et al., *How the World Is Reeling From Trump’s Aid Freeze*, N.Y. Times, Jan. 31, 2025, <https://www.nytimes.com/2025/01/31/world/asia/trump-usaid-freeze.html>; Stephanie Nolan, *Health Programs Shutter Around the World After Trump Pauses Foreign Aid*, N.Y. Times, Feb. 1, 2025, <https://www.nytimes.com/2025/02/01/health/trump-aid-malaria-tuberculosis-hiv.html>; *Oversight of USAID-Funded Humanitarian Assistance Programming Impacted by Staffing Reductions and Pause on Foreign Assistance*, U.S. Agency for International Development Office of the Inspector General, Feb. 10, 2025, <https://oig.usaid.gov/sites/default/files/2025-02/USAID%20OIG%20-%20Oversight%20of%20USAID-Funded%20Humanitarian%20Assistance%20Programming%20021025.pdf>.

¹⁹ *Supra* note 1.

²⁰ Belinda Luscombe, *Inside the Chaos, Confusion, and Heartbreak of Trump’s Foreign Aid Freeze*, TIME (Feb. 1, 2025, 6:46 AM), <https://time.com/7211200/usaid-foreign-aid-freeze-trump-rubio/>.

Since Trump's decision to explore shutting down USAID, media interest in the operations and future of USAID has been widespread and exceptional.²¹ The media coverage became only more voluminous and exceptional after USAID's website was pulled down, employees were locked out of systems, and the Secretary of State announced he was acting Administrator.²²

Moreover, I certify to be true and correct to the best of my knowledge and belief that there exist possible questions concerning the government's integrity regarding the active destruction of federal records at USAID. The information requested is necessary to provide an explanation to the public as to whether the Trump administration has followed the law in destroying federal records at the agency.

I further certify that American Oversight is primarily engaged in disseminating information to the public. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. Similar to other organizations that have been found to satisfy the criteria necessary to qualify for expedition,²³ American Oversight "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience."²⁴ American Oversight uses the information gathered, and its analysis of it, to

²¹ See, e.g., Fatma Tanis, *U.S. Puts Virtually All Foreign Aid on 90- Day Hold, Issues 'Stop-Work' Order*, NPR (Jan. 24, 2025, 6:41 PM), <https://www.npr.org/sections/goats-and-soda/2025/01/24/g-s1-44643/trump-foreign-aid-assistance-pause>; John Hudson & Jeff Stein, *Senior USAID Staff Put on Leave Amid Trump's Order Halting Foreign Aid*, Wash. Post (Jan. 27, 2025), <https://www.washingtonpost.com/national-security/2025/01/27/senior-usaid-staff-put-leave-amid-trumps-order-halting-foreign-aid/>; Apoorva Mandavilli, *Foreign Aid Freeze Leaves Millions Without H.I.V. Treatment*, N.Y. Times (Feb. 5, 2025), <https://www.nytimes.com/2025/02/05/health/trump-usaid-pepfar.html>; Matt Sledge, *Marco Rubio's USAID 'Humanitarian Waiver' Isn't Helping Restart Lifesaving Programs*, The Intercept (Feb. 6, 2025, 1:51 PM), <https://theintercept.com/2025/02/06/marco-rubio-usaid-humanitarian-waiver/>.

²² See, e.g., Omar Gallaga, *Missing: Thousands of Government Web Pages Removed by New Administration*, CNET (Feb. 3, 2025, 8:43 AM), <https://www.cnet.com/tech/services-and-software/missing-thousands-of-government-web-pages-removed-by-new-administration/>; Will Steakin et al., *Turmoil Inside USAID: Staff to Work from Home as Musk Seeks to Shut Down Agency*, ABC News (Feb. 3, 2025, 12:55 PM), <https://abcnews.go.com/Politics/turmoil-inside-usaid-doge-reps-offices-senior-officials/story?id=118368900>; Rebecca Heilweil, *USAID Website Goes Dark, Staff Emails Deactivated Amid DOGE Takeover, Source Says*, Fedscoop (Feb. 2, 2025), <https://fedscoop.com/usaid-website-goes-dark-staff-emails-deactivated-amid-doge-takeover-source-says/>; Ellen Knickmeyer & Fatima Hussein, *USAID Headquarters in Washington are Blocked After Musk Says Trump Agrees to Close the Aid Agency*, Assoc. Press (updated Feb. 3, 2025, 12:50 PM EST), <https://apnews.com/article/trump-musk-usaid-c0c7799be0b2fa7cad4c806565985fe2>.

²³ See *ACLU v. U.S. Dep't of Justice*, 321 F. Supp. 2d 24, 30–31 (D.D.C. 2004); *EPIC v. Dep't of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

²⁴ *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

educate the public through reports, press releases, and other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).²⁵ As discussed previously, American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content.²⁶

Accordingly, American Oversight's request satisfies the criteria for expedition.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in

²⁵ American Oversight currently has approximately 16,000 followers on Facebook and 95,800 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 10, 2025); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Feb. 10, 2025).

²⁶ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; see, e.g., *Emails and Resume of Trump's Pick to Head Government Personnel Office*, American Oversight, <https://www.americanoversight.org/emails-and-resume-of-trumps-pick-to-head-government-personnel-office>; *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>; *State Department Releases Ukraine Documents to American Oversight*, American Oversight, <https://www.americanoversight.org/state-department-releases-ukraine-documents-to-american-oversight>; *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>; *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>; *Sessions' Letter Shows DOJ Acted On Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.²⁷ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.²⁸

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,²⁹ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

²⁷ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

²⁸ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

²⁹ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Danny Martinez at foia@americanoversight.org or (202) 897-2465. Also, if American Oversight's request for expedition is not granted or its request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Danny Martinez
Danny Martinez
on behalf of
American Oversight