



February 5, 2018

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
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RE: FOIA Request for Records Regarding UNRWA Funding “Palestinian Refugees”

Dear Sir or Ma’am:

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)¹ on behalf of our members who have expressed their concern about the U.S. State Department’s reported favor, funding and special treatment of so-called “Palestinian refugees” in a manner inconsistent with United States’ policy and applicable law.

To summarize, the numbered requests contained herein seek any and all records concerning the U.N.’s Relief Works Agency (UNRWA), including a particular U.S. report on UNRWA which, according to recent reports, indicates awareness by State Department officials of fraud by the UNRWA; including but not limited to State Department officials discussions concerning the current Administrations recent decision to reduce funding for UNRWA; and including but not limited to any State Department officials’ discussion with former Secretary of State John Kerry.

Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable),

¹The 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 with respect to international affairs, and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world.

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and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

According to its website:

The United Nations Relief and Works Agency for Palestine Refugees (UNRWA) is funded almost entirely by voluntary contributions from UN Member States. UNRWA also receives some funding from the Regular Budget of the United Nations, which is used mostly for international staffing costs.

The Agency’s services encompass education, health care, relief and social services, camp infrastructure and improvement, microfinance and emergency assistance, including in times of armed conflict.²

“Following the 1948 Arab-Israeli conflict, UNRWA was established by United Nations General Assembly Resolution 302 (IV) of 8 December 1949 to carry out direct relief and works programmes for Palestine refugees.”³

“The U.S. provides about one-third of UNRWA’s funding and provided more than \$350 million to the agency in 2016.”⁴ “The U.S. is UNRWA’s largest single donor.”⁵

According to the U.S. Department of State:

The Bureau [of Population, Refugees, and Migration] manages U.S. contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to provide humanitarian services to approximately 5.2 million registered Palestinian refugees in the West Bank, Gaza, Lebanon, Syria, and Jordan.

And, according to UNRWA:

For over six decades, the United States has been a strong partner of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Members of the Advisory Commission since 1949, the U.S. is the largest bilateral donor to UNRWA and has long been one of the Agency’s most reliable supporters.

² *Who We Are*, UNRWA, <https://www.unrwa.org/who-we-are> (last visited Jan. 29, 2018).

³ *Id.*

⁴ *Netanyahu: UN’s Palestinian Refugee Agency Should Be ‘Thing of the Past’*, VOA NEWS, <https://www.voanews.com/a/israeli-prime-minister-wants-un-palestine-aid-to-end/4197649.html> (last updated Jan. 8 2018, 2:53 AM).

⁵ Alexandra Zavis & Noga Tarnopolsky Rushdi Abu Laouf, *In Palestinian Territories – and in Israel – Jitters over Trump’s Threat to Cut Aid to Palestinians*, L.A. TIMES (Jan. 7, 2018, 4:50 PM), <http://www.latimes.com/world/middleeast/la-fg-trump-palestinians-aid-20180107-story.html>.

The United States' exemplary and long-standing support is highly recognized and valued by UNRWA, allowing the Agency to ensure that the needs of the most vulnerable Palestine refugees are met.⁶

And,

UNRWA is unique in terms of its long-standing commitment to one group of refugees. It has contributed to the welfare and human development of four generations of Palestine refugees, defined as “persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict.” The descendants of Palestine refugee males, including legally adopted children, are also eligible for registration.

But many contend the UNRWA and officials at the State Department serve an ill-advised political purpose. Demonstrating that point, a recipient of UNRWA subsidies had this to say:

“There is no witness to the tragedy of the Palestinian people other than UNRWA,” said Mohammad Afifi, a 58-year-old shopkeeper who was born and raised in Shatila. *“I hold on to UNRWA because I hold on to my right of returning to Palestine.”*⁷

Moreover, it appears to be coming to light that the State Department has been and remains aware that the millions of “refugees” UNRWA allegedly provides aid may actually be closer to a mere 20,000. According to a recent press report, “[t]he State Department is hiding a classified report on Palestinian refugees that insiders say could be a game changer in how the United States approaches the situation and allocates millions in taxpayer funds to a key United Nations agency, according to multiple sources briefed on the situation.”⁸ And, “[t]he report was described to the Free Beacon as a potential tipping point in the debate over UNRWA and its mission, which has come under increased criticism in Congress for what many claim is the agency's anti-Israel bias and routine promotion of pro-terrorism doctrines.”⁹

Some State Department officials have acknowledged in private meetings that there is no reason the report should remain classified, according to sources who said the over classification is part of an effort to suppress this information from Congress and the public.

“I was informed that there is no justification for classifying the report. Rather, it is the officials at State Department who do not want this information out as it could

⁶ *United States: A Long-Standing Partner of UNRWA*, UNRWA, <https://www.unrwa.org/united-states-long-standing-partner-unrwa> (last visited Jan. 29, 2018).

⁷ Alexandra Zavis, *supra* note 5 (emphasis added).

⁸ Adam Kredo, *State Department Hiding 'Game Changer' Report on Myth of Palestinian Refugees*, WASH. FREE BEACON (Jan. 18, 2018, 12:25 PM), <http://freebeacon.com/national-security/state-department-hiding-game-changer-report-myth-palestinian-refugees/>.

⁹ *Id.*

and would lead to a call to reform UNRWA,” said one source briefed on the matter.¹⁰

“UNRWA has come under fire from pro-Israel activists and some lawmakers for anti-Israel bias and complicity with radical elements of Palestinian society. In addition to reports that UNRWA is using anti-Israel content in its classrooms, it has been caught hiding Hamas rockets in its schools on at least three separate occasions.”¹¹

According to press coverage:

The U.S. report on UNRWA was first commissioned in 2015 by former senator Mark Kirk (R., Ill.), who was spearheading an effort to increase the organization’s transparency.

Kirk forwarded a congressional amendment to require the State Department to provide Congress with a report on the number of refugees served by UNRWA who actually lived in the territory now known as Israel between 1946 and 1948.

The State Department never acknowledged having completed the report, sources said, and instead classified it.

“State had neglected to tell Sen. Kirk’s office,” said one source with knowledge of the situation. “It seems that this was intentional.”

Once the report’s existence was confirmed, Congress, in a 2017 measure, directed the State Department to provide an unclassified version of the report. This, too, was ignored, sources said.

The report is said to confirm that, as opposed to what UNRWA and its supporters claim, the number of refugees is actually in the tens of thousands, not the millions.

Richard Goldberg, a former deputy chief of staff for Kirk, told the Free Beacon that the UNRWA effort was always about exposing the myth that there are millions of refugees who still require aid.

“This is about basic taxpayer oversight of an agency that gobbles up hundreds of millions of dollars ever year,” said Goldberg, the author of the original amendment that required the report. “Are we funding a refugee agency or are we funding a welfare agency that nurtures a culture terrorism and violence?”

Making major headlines internationally, the current “administration on [January 16, 2018] cut tens of millions of dollars in money for Palestinian refugees, demanding that the U.N. agency responsible for the programs undertake a ‘fundamental re-examination,’ the State Department

¹⁰ *Id.*

¹¹ *Id.*

said.”¹² “In a letter, the State Department notified the U.N. Relief and Works Agency that the U.S. is withholding \$65 million of a planned \$125 million funding installment. The letter also makes clear that additional U.S. donations will be contingent on major changes by UNRWA, which has been heavily criticized.”¹³

Then, in a very recent press report, we learned that the former head of the Department of States is communicating with the leader of the Palestinian Authority (PA):

While the White House has confirmed that since the Jerusalem Declaration there has been a complete disconnect between the Palestinian Authority and the Trump administration, it turns out that the previous administration has maintained contact with PA officials.

Maariv reported that former US secretary of state John Kerry met in London with a close associate of PA President Mahmoud Abbas, Hussein Agha, for a long and open conversation about a variety of topics. Agha apparently reported details of the conversation to senior PA officials in Ramallah. A senior PA official confirmed to Maariv that the meeting took place.¹⁴

This meeting, and the comments reportedly made therein, are making international headlines. In fact, both domestic and international media coverage of all the issues and actions addressed herein are voluminous.

Records Requested

For purposes of this Request, the term “record” is “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 Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)¹⁵ (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.”).

¹² Matthew Lee, *The U.S. Has Cut Half of Its Aid to Palestinian Refugees Pending U.N. Reform*, TIME.COM (Jan. 17, 2018), <http://time.com/5105444/donald-trump-palestine-refugee-funding/>.

¹³ *Id.*

¹⁴ Ben Caspit/Maariv, *Kerry to Abbas Confidante: ‘Stay Strong and Do Not Give In to Trump*, JERUSALEM POST (Jan. 24, 2018, 8:08), <http://www.jpost.com/Arab-Israeli-Conflict/Kerry-to-Abbas-confidante-Stay-strong-and-do-not-give-in-to-Trump-539643>.

¹⁵ *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016).

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 “DOS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, 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 DOS, 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 DOS, 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.

To best of Requestor’s knowledge and belief, records responsive to this Request are likely to within the custody of the office(s) of the:

- Secretary of State;
- Deputy Secretary of State;
- United States Mission to the United Nations;
- United States Agency for International Development;
- Under Secretary for Civilian Security, Democracy, and Human Rights, including but not limited to the Bureau of Population, Refugees, and Migration and the Bureau of Democracy, Human Rights and Labor; and the Office of Global Criminal Justice; and the Ambassador-at-Large for Counterterrorism and Countering Violent Extremism;
- Under Secretary for Political Affairs, including but not limited to the Bureau of Near Eastern Affairs and the Bureau of International Organizations;
- Under Secretary for Management and specifically, the Comptroller, Global Financial Services;
- Assistant Secretary for Legislative Affairs;
- Office of Policy Planning; and,
- Office of Civil Rights.

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, the timeframe of records requested herein is January 20, 2016, to the date this Request is processed, unless otherwise indicated.

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that the DOS respond to the following numbered requests and produce all responsive records:

1. State Department Records Regarding UNRWA

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee referencing or regarding in any way the United Nations Human Relief Works Agency or, the UNRWA, as identified in

the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or 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.

2. State Department Records Regarding “Palestine” and “Refugee”

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee referencing or containing the terms (A) “Palestine” *or* “Palestinian” *or* “Palestinian Authority” (PA) *and* (B) “refugee,” including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or 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.

3. State Department Records Regarding the UNRWA “Report”

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee referencing or regarding in any way the U.S. Report concerning the United Nations Human Relief Works Agency or, the UNRWA, as identified and described in Washington Free Beacon report in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or 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.

4. State Department Records Regarding Decision to Cut or Reduce Funds Provided to UNRWA

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee referencing or regarding in any way the decision to cut or reduce funds provided to the United Nations Human Relief Works Agency or, the UNRWA, as identified in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or

retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or 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.

5. State Department Records Regarding “Palestine” or related issues and former Secretary of State John Kerry

(A) All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official or employee from referencing, regarding in any way, or containing the terms

- (i) “Palestine” or “Palestinian” or “Palestinian Authority” and
- (ii) former Secretary of State John Kerry; or

(B) All records or communications with John Kerry (or any assistant, staff or agent of John Kerry) regarding or referencing in any way the terms “Israel,” “Palestine” (including “Palestinian” or the “Palestinian Authority” (including the “PA”), the “United Nations Relief Works Agency” or “UNRWA”), “Hezbollah,” “ Hamas” or “Iran”; including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or 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.

CONCLUSION

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

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

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

Jordan Sekulow, Executive Director
Carly F. Gammill, Senior Litigation Counsel
Benjamin P. Sisney, Senior Litigation Counsel



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

Respectfully submitted,

Handwritten signature of Jordan Sekulow in cursive.

Jordan Sekulow
Executive Director

Handwritten signature of Carly F. Gammill in cursive.

Carly F. Gammill
Senior Litigation Counsel

Handwritten signature of Benjamin P. Sisney in cursive.

Benjamin P. Sisney
Senior Litigation Counsel