

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS,
AMARILLO DIVISION**

DR. RONNY JACKSON, STUART and
ROBBI FORCE, and SARRI SINGER,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., et al,

Case No. 2:22-CV-00241-Z

Defendants.

**APPENDIX TO THE PLAINTIFFS' BRIEF IN SUPPORT OF THEIR
MOTION FOR LEAVE TO CONDUCT EXPEDITED AND LIMITED
JURISDICTIONAL DISCOVERY**



United States Department of State

Washington, D.C. 20520

June 14, 2023

Case No. FL-2022-00043

Morgan Yardis
Protect the Public's Trust
712 H Street NE, Suite 1682
Washington, DC 20002

Dear Mr. Yardis:

As we noted in our letter dated May 3, 2023, we are processing your request for material under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. The Department of State ("Department") has identified an additional 10 responsive records subject to the FOIA. We have determined all 10 records may be released in part.

An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we have made redactions, the applicable FOIA exemptions are marked on each record. Where applicable, the Department has considered the foreseeable harm standard when reviewing these records and applying FOIA exemptions. All non-exempt material that is reasonably segregable from the exempt material has been released and is enclosed.

We will keep you informed as your case progresses. If you have any questions, your attorney may contact Doug Dreier, Assistant U.S. Attorney, at Douglas.Dreier@usdoj.gov and 202-725-4614. Please refer to the case number, FL-2022-00043, and the civil action number, 22-cv-00105, in all correspondence about this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diamonece Hickson', with a stylized, cursive script.

Diamonece Hickson
Chief, Litigation and Appeals Branch
Office of Information Programs and Services

Enclosures: As stated.

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept classified in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- | | |
|----------------|---|
| ARMSEXP | Arms Export Control Act, 50a USC 2411(c) |
| CIA PERS/ORG | Central Intelligence Agency Act of 1949, 50 USC 403(g) |
| EXPORT CONTROL | Export Administration Act of 1979, 50 USC App. Sec. 2411(c) |
| FS ACT | Foreign Service Act of 1980, 22 USC 4004 |
| INA | Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f) |
| IRAN | Iran Claims Settlement Act, Public Law 99-99, Sec. 505 |
- (b)(4) Trade secrets and confidential commercial or financial information
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Personal privacy information
- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester

Privacy Act Exemptions

- (d)(5) Information compiled in reasonable anticipation of a civil action or proceeding
- (j)(1) Information maintained by the CIA
- (j)(2) Enforcement of criminal law, including efforts to prevent, control, or reduce crime or apprehend criminals, except records of arrest
- (k)(1) Classified pursuant to E.O. 13526 in the interest of national defense or foreign policy
- (k)(2) Investigatory material compiled for law enforcement purposes
- (k)(3) Regarding protective services to the President of the United States or other individual pursuant to Title 18, U.S.C., Section 3056
- (k)(4) Required by statute to be maintained and used solely as statistical records
- (k)(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence
- (k)(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the testing or examination process
- (k)(7) Evaluation material used to determine potential for promotion in the armed services

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To: (b)(6)@state.gov>;
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 WBG Desk <wbgdesk@usaid.gov>;
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 CT CTFD <CT_CTFD@state.gov>;
 (b)(6)@state.gov>;
 (b)(6)@state.gov>;
 (b)(6)@state.gov>
CC: EB-A-TFS-TFC-ThreatFinanceDesignations <EB-A-TFS-TFC-ThreatFinanceDesignations@state.gov>
Subject: 12pm Friday Clearance: License Application for West Bank and Gaza
Date: Thu, 25 Feb 2021 22:26:35 +0000

Colleagues,

Below is a license application to OFAC seeking authorization to conduct official USG activities in the West Bank and Gaza that might otherwise be prohibited by CT sanctions regulations. Please review and provide edits/clearance by 12pm Friday (2/26). NEA requested this urgently, so we plan to submit to OFAC on Monday morning.

[State FPG - License Request for USG Activity in West Bank Gaza - 2.2021.docx](#)

EB and NEA spoke with OFAC today to underscore the need for broad authorization to enable flexible programming as conditions on the ground change and the political environment evolves. For that reason we're not including the typical comprehensive list of activities we want authorized but rather are focusing on the foreign policy objectives and providing illustrative examples of our programming. Program offices should feel free to correct or elaborate on the examples included in this list, but please keep the bullets relatively short and high level.

Let me know if you have any questions.

Thanks,

(b)(6)

(b)(6)

U.S. Department of State
 Bureau of Economic and Business Affairs (EB)

(b)(6)
 (b)(6)@state.gov

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 WBG Desk <wbgdesk@usaid.gov>;
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 CT_CTFD <CT_CTFD@state.gov>;
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 EB-A-TFS-TFC-ThreatFinanceDesignations <EB-A-TFS-TFC-ThreatFinanceDesignations@state.gov>

**United States Department of State***Washington, D.C. 20520*~~SENSITIVE BUT UNCLASSIFIED~~

March 1, 2021

TO: **Brad Smith**
Acting Director
Office of Foreign Assets Control
Department of the Treasury

FROM: **Andrew Weinschenk**
Director
Office of Threat Finance Countermeasures

SUBJECT: ~~(SBU)~~ Request for Specific License to Authorize U.S. Government Official Activity in the West Bank and Gaza

~~(SBU)~~ The Department of State requests that OFAC issue a specific license authorizing for a period of two years the conduct of the official business of the U.S. government by employees, grantees, or contractors thereof in the West Bank and Gaza that would otherwise be prohibited by the Global Terrorist Sanctions Regulations and the Foreign Terrorist Organization Sanctions Regulations. Such authorization would enable activities, including assistance activities, that are critical to support the Administration's efforts to advance prosperity, security, and freedom for both Israelis and Palestinians and to advance and preserve the prospects of a negotiated solution in which Israel lives in peace and security alongside a viable Palestinian state.

Foreign Policy Objectives

~~(SBU)~~ Secretary Blinken has stated that this Administration intends to restore assistance to the Palestinian people to advance U.S. interests. U.S. assistance serves important purposes, including supporting Israeli-Palestinian security coordination, providing critical humanitarian relief, and fostering economic development. The United States is committed to advancing prosperity, security, and freedom for both Palestinians and Israelis, which is important in its own right, but also as a means to advance and preserve the prospects of a negotiated two-state solution, in which Israel lives in peace and security alongside a viable Palestinian state. The two-state approach remains the best way to ensure Israel's future as a democratic and Jewish state, while enabling the Palestinian people to live with freedom, security, and prosperity in a viable state of their own. We are working with all parties to advance that goal, and reengaging diplomatically and restarting assistance programs will help support a stable environment that benefits both Palestinians and Israelis.

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Assistance to be Provided

(SBU) The Administration seeks to restart economic, humanitarian, and security assistance activities in the West Bank and Gaza that will benefit all Palestinians and address critical issues that further progress toward peace. Our assistance programs improve the lives of millions of Palestinians through support to health, infrastructure, humanitarian relief, and economic development activities. Moreover, our support for the development of the Palestinian economy, civil society, and other private and public institutions helps improve the lives of Palestinians and ensure the viability of a future Palestinian state.

(SBU) Because we are restarting assistance after a multi-year gap, State, USAID, and other U.S. government agencies that may provide assistance or engage in other economic initiatives need maximum flexibility to adjust programming quickly in response to fluid conditions on the ground in the West Bank and Gaza. Below is an illustrative list of assistance activities State and USAID intend to implement in the near term. As we better understand the specific economic, humanitarian, and security needs in the West Bank and Gaza and identify assistance or other economic initiatives that would support our objectives, the programs in our assistance portfolio will likely evolve. We are seeking maximum flexibility under this license to enable U.S. government activities to respond to changing needs as quickly and effectively as possible.

- COVID-19 Rapid Relief (\$15 million): USAID intends to provide emergency, life-saving humanitarian assistance to mitigate the spread and impact of COVID-19 in Gaza. This includes efforts to treat the sick, support vaccine rollout, and enable public health responses against a potential re-emergence of the virus. This program could also support the United Nations' World Food Program (WFP) effort to help meet COVID-exacerbated food security needs in Gaza.
- UN Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) (\$100 million): State intends to resume support for UNRWA's activities in the West Bank and Gaza. UNRWA provides humanitarian interventions for Palestinian refugees such as food, cash-for-work, cash assistance, health and psychosocial support, education, water and sanitation, and COVID-19 prevention.
- International Narcotics and Law Enforcement (\$89 million): State intends to support the Palestinian Authority Ministry of Interior's efforts to improve training, civilian security, prosecutions, and corrections.
- Private Sector Growth (\$7 million): USAID intends to provide support to the Palestinian private sector by supporting small and medium enterprises (SMEs) in the West Bank and Gaza. U.S. assistance will help SMEs regain productivity and expand activities through a package of grants, technical assistance, and increased access to finance.

Commented [CA1]: IL – intended to cover DFC. Sufficient?

Commented [CA2]: OFAC clearly stated we do not need to provide all activities, just an illustrative list. Better to keep this concise and illustrative, rather than exhaustive.

Commented [CA3]: .PRM – can you confirm amount?

Commented [CA4]: Correct?

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- Youth Employment and Engagement (\$4 million): USAID intends to support vulnerable and marginalized youth in the West Bank and Gaza with programs that provide psychosocial support, life skills, and technical training, as well as community engagement opportunities that aim to provide an alternative means of empowerment and prevent youth from joining extremist organizations.
- Immediate Humanitarian Relief (\$6 million): USAID intends to provide rapid relief to needy households in Gaza with programs that could include short-term employment, grants for income generating projects and small businesses, and food and non-food vouchers.
- Water and Sanitation (WASH) and Water Improvement (\$23 million): USAID intends to help marginalized communities in Gaza access clean water and improve hygiene, in addition to constructing water storage reservoirs in northern Gaza that will ensure sustainable, reliable, and safe drinking water. Some recent studies show only about 10 percent of available water in Gaza is potable.

Need for an OFAC License

(SBU) Hamas is a Foreign Terrorist Organization (FTO) and Specially Designated Global Terrorist (SDGT). Other terrorist groups are present in the West Bank and Gaza, including Palestinian Islamic Jihad (PIJ), the Palestine Liberation Front (PLF), and the Popular Front for the Liberation of Palestine (PFLP). Due to its overall strength and level of control over Gaza, we assess there is a high risk Hamas could potentially derive indirect, unintentional benefit from U.S. assistance to Gaza. There is less but still some risk U.S. assistance would benefit other designated groups.

Commented [CA5]: Defer to others to confirm this is accurate

(SBU) According to USAID's West Bank and Gaza mission, there have been no known cases of U.S. government or other donor supplies or equipment being stolen or destroyed. In addition, USAID is not aware of any explicit, conscious effort by sanctions groups to seek reputational benefit from U.S. assistance in the West Bank or Gaza. Notwithstanding this risk, State believes it is in our national security interest to provide assistance in the West Bank and Gaza to support the foreign policy objectives outlined above.

Mitigation Measures

(SBU) State and USAID will continue to take appropriate steps to mitigate the risks that U.S. assistance benefits Hamas, PIJ, or any other terrorist organization in the West Bank and Gaza. Risk mitigation measures include counter-terrorism vetting of all partner organizations, as well as requirements for partner organizations to mitigate risk for fraud and diversion. The U.S. government maintains a "no contact" policy with Hamas, and U.S. implementing partners do not engage Hamas on the locations or types of assistance provided, nor on the recipients of U.S.

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assistance. Implementing partners are required to notify State and USAID of developments that have a significant impact on the activities support in any award and the problems, delays, or adverse conditions that materially impair the ability to meet objectives in the award, including attempts by a sanctioned group to control a program's resources or beneficiaries. Further risk mitigation measures could be pursued if and as needed depending on how U.S. activities develop in the coming months and years.

Summary of Request

~~(SBU)~~ The Department of State requests on foreign policy grounds that OFAC issue a specific license for a period of two years authorizing the conduct of the official business of the U.S. government by employees, grantees, or contractors thereof in the West Bank and Gaza that would otherwise be prohibited by the Global Terrorist Sanctions Regulations and the Foreign Terrorist Organization Sanctions Regulations to support the Administration's foreign policy objectives. We request the license be unclassified so relevant U.S. government agencies can share a copy with partners as necessary.

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Approved: EB/TFS (b)(6)
NEA/FO (b)(6)

Drafted: EB/TFS/TFC (b)(6)

Cleared: EB/TFC: (b)(6)
EB/TFC: (b)(6)
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