

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

JUDICIAL WATCH, INC.,)	
425 Third Street S.W., Suite 800)	
Washington, DC 20024,)	
)	Civil Action No.
Plaintiff,)	
v.)	
)	
U.S. DEPARTMENT OF STATE,)	
The Executive Office)	
Office of the Legal Adviser, Suite 5.600)	
600 19 th Street, N.W.)	
Washington, DC 20522,)	
)	
and)	
)	
U.S. AGENCY FOR INTERNATIONAL)	
DEVELOPMENT,)	
1300 Pennsylvania Avenue, N.W.)	
Washington, DC 20534,)	
)	
Defendants.)	
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COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendants U.S. Department of State and the U.S. Agency for International Development to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant U.S. Department of State ("State Department") is an agency of the United States Government headquartered at 2201 C Street, N.W., Washington, DC 20520. The State Department has possession, custody, and control of records to which Plaintiff seeks access.

5. Defendant U.S. Agency for International Development ("USAID") is an agency of the United States Government headquartered at 1300 Pennsylvania Avenue, N.W., Washington, DC 20534. USAID has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

6. On February 16, 2017, Plaintiff submitted identical FOIA requests to both Defendants seeking access to the following records:

1. Any and all records regarding, concerning, or related to any grants, contracts, or other allocations and/or disbursements of funds by the Department of State to the Foundation Open Society-- Macedonia and/or any of the Foundation's subsidiaries. This request includes, but is not limited to, any and all related proposals, requests for funding, assessments, evaluations, payment authorizations, or similar records, as well as any and all related records of communication between any official, employee, or representative of the Department of State and any official, employee, or representative of the U.S. Agency for International Development (USAID).

- 2. Any and all records of communication between any official, employee, or representative of the Department of State and any officer, employee, or representative of the Foundation Open Society-Macedonia and/or any of the Foundation's subsidiaries or affiliated organizations. This request includes, but is not limited to, any responsive records of communication sent from or directed to U.S. Ambassador to Macedonia Jess L. Baily.**
- 3. Any and all assessments, evaluations, analyses, or similar records regarding, concerning, or related to the political activities of the Foundation Open Society-Macedonia and/or any of the Foundation's subsidiaries or affiliated organizations.**
- 4. Any and all cables, teletypes, or other messages transmitted via the State Department's SMART system sent from any U.S. Government employee or contractor operating under the Chief of Mission's authority at the U.S. Embassy in Skopje that pertain to and/or reference the Foundation Open Society- Macedonia and/or any of the Foundation's subsidiaries or affiliated organizations.**

For purposes of this request, subsidiaries and affiliated organizations of the Foundation Open Society - Macedonia include, but are not limited to, the following entities:

**The Macedonian Civic Education Centre
The East-West Management Institute
The Association for Democratic Initiatives
The National Youth Council
Metamorphosis
Plusinfo
Meta
Libertas
A1 On
Nova TV
Maktel
Prizma
Okno
The Media Development Centre
The Center for Civil Communications
The Macedonian Civic Education Center
HERA
CIVIL
IZLEZ
NVO Infocentar
Ploshtad Sloboda (Freedom Square)
Kontrapunkt
Faculty for Things You Don't Learn in School
Reactor
The Macedonian Center for EU Training**

**The Forum Center for Strategic Research and Documentation
The Youth Educational Forum
Citizens for European Macedonia (CEM)
The Association for Democratic Initiatives (ADI)**

The time frame for the requests was identified as “January 1, 2015 to the present.” The request to the State Department was submitted by facsimile and certified U.S. Mail. The request to USAID was submitted by e-mail and certified U.S. Mail.

7. By letter dated February 22, 2017, the State Department acknowledged receipt of Plaintiff’s request on February 16, 2017 and advised Plaintiff that the request had been assigned Case Control Number F-2017-03378.

8. By a letter dated February 17, 2017, the USAID acknowledged receipt of Plaintiff’s request dated February 16, 2017, and advised Plaintiff that the request had been assigned tracking number F-00108-17.

9. As of the date of this Complaint, both the State Department and USAID have failed to: (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records Defendants intend to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
Violation of FOIA, 5 U.S.C. § 552

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Plaintiff is being irreparably harmed by reason of Defendants’ violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with FOIA.

12. To trigger FOIA's administrative exhaustion requirement, Defendants were required to determine whether to comply with Plaintiff's request within twenty (20) working days of receiving the request, or on or about March 17, 2017. At a minimum, Defendants were required to: (i) gather and review the requested documents; (ii) determine and communicate to Plaintiff the scope of any responsive records Defendants intended to produce or withhold and the reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Comm'n*, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

13. Because Defendants have failed to determine whether to comply with Plaintiff's requests within the time period required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendants to conduct searches for any and all records responsive to Plaintiff's FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA requests; (2) order Defendants to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 19, 2017

Respectfully submitted,

/s/ James F. Peterson

James F. Peterson

D.C. Bar No. 450171

JUDICIAL WATCH, INC.

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(202) 646-5172

Counsel for Plaintiff