



March 16, 2022

VIA ONLINE SUBMISSION & EMAIL: FOIARequest@state.gov

U. S. Department of State
Office of Information Programs and Services
2201 C Street N.W., Suite B266
Washington, D.C. 20520-0000

Re: Freedom of Information Act Request for Records Regarding the Biden Administration's Efforts to Undermine Israel and Advance BDS.

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 25,000 unique addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR.

Pursuant to 5 U.S.C. § 552(a), AFL requests the following records.

I. Requested Records

The time frame for this request is March 1, 2021, to the time this request is processed.

A. All records of or referencing the funding opportunity now designated "DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza," funding opportunity number "SFOP0008613," <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>.

B. Records sufficient to identify the person(s) who requested, authorized, reviewed, directed, or wrote the funding opportunity now designated “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>.

C. Records sufficient to identify the person(s) who requested, wrote, reviewed, and/or approved the following language in for “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>:

Program activities should focus on enabling independent civil society in Israel and the West Bank and Gaza to: collect, archive, and maintain human rights documentation to support justice and accountability and civil society-led advocacy efforts, which may include documentation of legal or security sector violations and housing, land, and property rights; understand and access the forums and processes available to take meaningful action in pursuing truth, accountability, and memorialization; and/or provide psychosocial support to survivors of atrocities.

D. Each application received for “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>

E. All records of the evaluation and processing of each application for funding under “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>.

F. All records sufficient to identify the person(s) responsible for choosing the winning application for “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>.

G. All records of communications with any person regarding: (1) “DRL Strengthening Human Rights and Accountability in Israel and the West Bank and Gaza,” funding opportunity number “SFOP0008613.”, <https://www.state.gov/drl-strengthening-human-rights-and-accountability-in-israel-and-the-west-bank-and-gaza/>; and/or (2) investigations of alleged human rights violations by Jews or by the Israeli government.

H. All records of the processing of this request.

II. Custodians

A. All political appointees, and all career employees with a grade equivalent to GS-14 or higher, in the Bureau of Democracy, Human Rights, and Labor.

III. Processing

The FOIA requires the Department of State to disclose records freely and promptly. It must liberally construe AFL's requests and make a good faith effort to search for requested records using methods "which can be reasonably expected to produce the information requested." At all times, FOIA must be construed to carry out Congress's open government mandate according to the ordinary public meaning of its terms at the time of its enactment. As a general matter:

- Redactions are disfavored as the FOIA's exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then the Department must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please give full effect to all applicable authorities and broadly construe our Item and your obligations to provide responsive records.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in 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. It is not adequate to rely on policies and procedures that require officials to move records to official systems within a certain time. AFL has a right to records 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.

- Please use all available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner 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; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, then 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 before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. § 171.17, AFL requests a waiver of all search and duplication fees. These authorities provide for fee waivers when, as here, “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” AFL’s request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding of the steps taken by the Biden Administration to interfere with and undermine the Government and State of Israel, and to advance the interests of non-governmental organizations orchestrating and advancing the anti-Semitic Boycott, Divestment, and Sanctions movement, all in violation of U.S. law.

Also, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content. We distribute our work widely, posting government records for the benefit of the public, Congress, policymakers, and scholars, and creating and disseminating distinct work on media outlets of all sorts through the exercise of our editorial skills.

As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the

information requested is not primarily in AFL's financial interest. Our status as a qualified non-commercial public education and news media requester has been recognized by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

V. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

VI. Conclusion

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. Finally, please contact us immediately if AFL's request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely yours,

/s/ Reed D. Rubinstein
Reed D. Rubinstein
America First Legal Foundation