

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NOTUS MEDIA LLC et al.,

Plaintiffs,

v.

U.S. AGENCY FOR INTERNATIONAL
DEVELOPMENT,

Defendant.

Civil Action No. 26-1004 (AHA)

ANSWER

Defendant, the United States Agency for International Development, (“USAID” or “Defendant”), by and through its undersigned counsel, respectfully submits the following Answer to the Complaint (ECF No. 1) filed by Notus Media LLC and Dave Levinthal, (“Plaintiffs”), in the above-captioned Freedom of Information Act (“FOIA”) action.

RESPONSES TO THE NUMBERED PARAGRAPHS

Defendant responds below to the separately numbered paragraphs and prayer for relief contained in the Complaint. To the extent that any allegation is not admitted herein, it is denied. Moreover, to the extent that the Complaint refers to, or quotes from, external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents; however, such references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiffs; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action. Defendant responds to the Complaint in like-numbered paragraphs as follows:

1. This paragraph consists of Plaintiffs' characterization of this civil action to which no response is required. To the extent a response may be deemed required, Defendant admits that Plaintiffs bring this civil action under the Freedom of Information Act, 5 U.S.C. § 552.

2. This paragraph consists of Plaintiffs' characterization of this civil action to which no response is required. To the extent a response is deemed required, deny.

3. This paragraph consists of Plaintiffs' characterization of this civil action to which no response is required. To the extent a response is deemed required, deny.

4. This paragraph contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant admits only that it has not yet provided a substantive response to the FOIA request and avers that Defendant continues to process Plaintiff's FOIA request.

PARTIES¹

5. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

7. Defendant admits only that it is a federal agency within the meaning of the FOIA. Defendant denies the remaining allegations in this paragraph.

¹ For ease of reference, the Defendant's Answer replicates the headings contained in the Complaint. Although the Defendant believes no response is required to such headings (Fed R. Civ. P. 10(b)), to the extent a response is deemed required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied

JURISDICTION AND VENUE

8. This paragraph contains conclusions of law to which no response is required. To the extent a response may be deemed required, Defendant admits that this Court has jurisdiction over properly stated claims under the FOIA, subject to the terms and limitations of the statute. Defendants deny the remaining allegations in this paragraph.

9. Defendant admits venue is proper in this District for a properly stated FOIA claim, subject to the terms and limitations of the statute.

FACTUAL ALLEGATIONS

10. This paragraph consists of Plaintiffs' characterization of their FOIA request, to which no response is required. To the extent a response is deemed required, Defendant respectfully refer the Court to FOIA request described in this paragraph for a true and accurate description of its contents and deny any statement inconsistent therewith.

11. Admit.

12. Admit.

13. Defendant admits that it has not produced any yet to be processed records potentially responsive to Plaintiffs' FOIA request.

14. Defendant admits that it has not informed Plaintiff of the scope of any yet to be processed records potentially responsive to Plaintiffs' FOIA request.

15. Deny. On November 26, 2024, Defendant invoked the unusual circumstance exception to the FOIA. *See* 5 U.S.C. § 552(a)(6)(B)(i).

CLAIM FOR RELIEF

Count I

16. Defendant incorporates its response to paragraphs 1 through 15 as if fully stated herein.

17. This paragraph contains Plaintiffs' characterization of the FOIA to which no response is required. To the extent a response may be deemed required, Defendant respectfully refers the Court to the statute and denies any statements inconsistent therewith.

18. Defendant denies that it is in control of yet to be identified records potentially responsive to Plaintiffs' FOIA request.

19. This paragraph contains Plaintiffs' characterization of the FOIA to which no response is required. To the extent a response may be deemed required, Defendant respectfully refers the Court to the statute and denies any statements inconsistent therewith.

20. Admit.

21. This paragraph contains Plaintiffs' characterization of the FOIA to which no response is required. To the extent a response may be deemed required, Defendant respectfully refers the Court to the statute and denies any statements inconsistent therewith.

22. Deny.

23. Deny.

24. This paragraph contains Plaintiffs' request for relief to which no response is required. To the extent a response may be deemed required, Defendant denies that Plaintiff is entitled to the relief requested.

25. This paragraph contains Plaintiffs' request for relief to which no response is required. To the extent a response may be deemed required, Defendant denies that Plaintiff is entitled to the relief requested.

RELIEF REQUESTED

The remainder of the Complaint starting with "RELIEF REQUESTED," asserts Plaintiffs' request or relief to which no response is required. To the extent that a response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested.

ADDITIONAL AND OTHER DEFENSES

Defendant reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to this Complaint become known to Defendant through the course of this litigation. Defendant specifically preserves these and other affirmative defenses as they are ascertained during litigation, including those required by Fed. R. Civ. P. 8 and 12. Defendant does not assume the burden of proving any of these defenses or elements thereof where, as a matter of law, the burden is properly placed on Plaintiff.

FIRST DEFENSE

Plaintiff is not entitled to compel the production of any record or portion of any record protected from disclosure by one or more of the exclusions or exemptions to the FOIA, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a, where disclosure would cause foreseeable harm.

SECOND DEFENSE

This Court lacks subject matter jurisdiction over any of Plaintiff's requests for relief to the extent that they exceed the relief authorized by FOIA or the Privacy Act.

THIRD DEFENSE

Plaintiff is neither eligible for nor entitled to attorney's fees or costs in this matter.

FOURTH DEFENSE

At all times alleged in the Complaint, Defendants acted in good faith, with justification, and pursuant to authority.

FIFTH DEFENSE

Plaintiff is not entitled to relief pursuant to the declaratory Judgment Act, 28 U.S.C. § 2201 in this FOIA case.

Dated: May 8, 2026
Washington, DC

Respectfully submitted,

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