

MEMO

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Abolishing USAID Would Contravene U.S. Law, the U.S. Constitution, and Would Harm Response to Current and Future Outbreaks

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Issue: The Trump administration is reportedly considering a plan to abolish USAID as an independent agency, perhaps moving it under the State Department, and to lay off a considerable part of its workforce.

Key Questions for Law & Policy:

Can the President legally abolish USAID? No. The U.S. Agency for International Development is an agency with authorities legislated by Congress. Its history is complex but its status is clear: Congress intended for U.S. foreign aid functions to operate with independence. The President does not have the legal authority to abolish it or move it under the State Department unilaterally.

USAID traces its origins to a bill introduced by U.S. Senator William Fulbright, which passed Congress in September 1961 and became the [Foreign Assistance Act](#). After signing it into law, President Kennedy created USAID by executive order to implement the law ([E.O. 10973](#)). Originally the agency functioned under the authority of the Secretary of State. However, after significant debate in Washington over the independence of the agency, Jimmy Carter created the United States International Development Cooperation Agency (IDCA) in 1979 ([E.O. 12163](#)) bringing development and security assistance together and moving USAID from State into the agency. The order delegated the authorities created by the Foreign Assistance Act to the Director of the IDCA.

In 1998 Congress passed the [Foreign Affairs Reform and Restructuring Act](#) which abolished the IDCA and formally established USAID as an independent agency, stating “there is within the executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code...” ([22 U.S.C. § 6563](#)). The law [required](#) the President to come up with a plan and provided the option to, within 60 days, elect to move all of USAID’s functions into State. President Clinton [declined](#) to do so and, as a result, USAID was confirmed as an independent statutory agency created by Congress. As it had done since inception,

the Foreign Affairs Reform and Restructuring Act provided that the Secretary of State give foreign policy guidance to USAID.

Since 2016 Congress has passed [five](#) authorizing laws that include new authorities, oversight, and authorizations of funding levels and USAID's independence has been maintained throughout. As such, USAID remains a distinct [statutory](#) agency with separate authorization, appropriation, and authorities. Several Senators have [already weighed in](#).

Is attempting to abolish USAID constitutional? No. Dissolving USAID or merging it into the State Department without the authorization of Congress would be unconstitutional. Article I of the U.S. Constitution gives Congress the [legislative prerogative](#) to create and abolish agencies. "To Congress under its legislative power is given the establishment of offices, the determination of their functions and jurisdiction..." wrote the Supreme Court in [Myers v. United States \(272 US 52 \(1926\)\)](#). Because Congress established USAID by statute, the executive branch lacks the unilateral authority to abolish it or subsume it without a corresponding act of Congress. This is not a small issue confined to USAID. The separation of powers doctrine is not merely a technicality; it is a safeguard intended to ensure that each branch of government operates within its constitutionally delineated boundaries. Allowing the executive to reshape or eliminate an agency that Congress created and continues to fund would effectively weaken the legislature's ability to craft and oversee foreign assistance. The Constitution intended a balance between branches to avoid the undue aggrandizement of power in any single entity, especially in matters as pivotal as foreign aid and development, which have broad implications for U.S. foreign policy and international standing. By preserving USAID as a distinct entity, we uphold the constitutional structure that places checks on executive power and respects Congress's legislative authority.

Has Secretary Rubio, when a Senator, engaged with legislation on USAID? Yes. Secretary Rubio, in fact, has been among the most recent legislative architects of USAID. He was the lead sponsor of the [Foreign Aid Transparency and Accountability Act of 2016](#) that established USAID's obligation to establish measurable goals and monitor them with results posted online and a [follow up bill](#) that required sharing which organizations received the funds. This is exactly why USAID needs highly-trained, well qualified professional staff of the type that are now threatened with dismissal.

Is abolishing USAID and/or absorbing it into the State Department good policy? No. It will not make the United States safer or stronger. There are many reasons to demand reform at USAID, perhaps even radical reform. There are strong critiques from the [left](#) and the right. Too much aid is poorly designed for the needs of 2025 and far too little of it reaches those who need it most. But aid money also saves lives. Halting it [has](#) shut down efforts to prevent children from dying of malaria, halted clinical trials, threatened a resurgence of [HIV](#), and more—showing its crucial role. Doing aid better, and with the outcomes-focus Secretary Rubio has pushed for, requires people, infrastructure, and political independence. USAID of course will always reflect the political positions of the United States Government. However, moving USAID into State would undermine its capacity

to do high-quality contracting and aid transparency, not strengthen it, while making aid even more tied to geopolitics and confused with the day-to-day diplomacy of the U.S. in the world.

How would this affect efforts to stop pandemics and current outbreaks? There are currently [reports](#) of 122 separate health emergency events worldwide. On January 20, Government of Tanzania declared an outbreak of Marburg disease, a highly contagious viral hemorrhagic fever (cousin to Ebola) with a case fatality rate as high as 88%. There is a new outbreak of the extremely rare Ebola-like [Chapare](#) Hemorrhagic Fever in Bolivia. There are new outbreaks of Ebola in the [Democratic Republic of Congo](#) and in [Uganda](#). Clade I Mpox has been [detected](#) in the Americas. Bird Flu is a growing regional and global crisis. The AIDS pandemic continues. Each and every one of these has implications for U.S. foreign policy and exist within complex tradeoffs of geopolitics and human need. None are best tackled by the State Department directly.

USAID is both its money and its people. It is the agency that funds local organizations that can often be most effective in addressing health, with expertise to secure accountability and transparency. USAID supported both the Tanzanian government and UNICEF to respond to a past Marburg outbreak effectively with equipment, medicines, and people. It funded the Red Cross to engage their network of community-based volunteers to respond. This time around, due to the Trump administration's aid freeze, no such cooperation is [happening](#) and the infrastructure to address it would largely be dismantled under this new move to abolish the agency.