

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

UNITED STATES INSTITUTE OF PEACE, *et al.*,

Plaintiffs,

v.

KENNETH JACKSON, *et al.*,

Defendants.

Case No. 1:25-cv-00804-BAH

**REPLY IN SUPPORT OF MOTION PURSUANT TO THE ALL WRITS ACT
FOR A STATUS CONFERENCE AND
TO SUSPEND TRANSFER OF INSTITUTE PROPERTY TO GSA**

To assist the Court in advance of the 10 a.m. status conference, Plaintiffs respond in writing to address in part the crux of Defendants’ assertion of their authority to transfer USIP’s assets, including the USIP building, to GSA: that the Institute is a “wholly owned government corporation and thus an ‘executive agency’ as a matter of law.” Opp. 2-3.

That assertion is directly contradicted by the plain language of the USIP Act that Defendants cite, 22. U.S.C. § 4603(b). It is also contradicted by 31 U.S.C. § 9101(3), which states:

(3) “wholly owned Government corporation” means--:

- (A) the Commodity Credit Corporation.
- (B) the Community Development Financial Institutions Fund.
- (C) the Export-Import Bank of the United States.
- (D) the Federal Crop Insurance Corporation.

- (E) Federal Prison Industries, Incorporated.
- (F) the Corporation for National and Community Service.
- (G) the Government National Mortgage Association.
- (H) the United States International Development Finance Corporation.
- (I) the Pennsylvania Avenue Development Corporation.
- (J) the Pension Benefit Guaranty Corporation.
- (K) the Great Lakes St. Lawrence Seaway Development Corporation.
- (L) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.
- (M) the Tennessee Valley Authority.
- (N) the Panama Canal Commission.
- (O) the Millennium Challenge Corporation.
- (P) the International Clean Energy Foundation.

And it is contradicted by the United States Government Manual, a publication of the Office of the Federal Register within the U.S. National Archives and Records Administration (“NARA”) that is the “official handbook of the Federal Government.” See U.S. Government Manual (published) (available at https://www.govinfo.gov/app/collection/govman/2025/03executive_United%20States%20Government%20Manual). The Manual lists 58 “independent establishments and government corporations” under the Executive Branch. USIP is not listed among them.

The Institute plainly is not “an ‘executive agency’ as a matter of law.” Moreover, even if USIP *were* an agency in the executive branch rather than a non-profit corporation, the president would not have at will removal power over USIP’s multi-member board of directors (contrary to 22 U.S.C. § 4605(f)) because USIP does not “wield substantial executive power” under the standard articulated by the

opinions of the judges concurring in granting a stay in *Harris v. Trump*, No. 25-5037, 2025 U.S. App. LEXIS 7301, at *6 (D.C. Cir. Mar. 28, 2025) (citation omitted). Plaintiffs will be prepared to further address this and other issues presented by Defendants' opposition at the status conference.

Respectfully submitted,

/s/ Andrew N. Goldfarb

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Dated: April 1, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 2025, I caused the foregoing to be filed electronically with the Clerk of the Court using CM/ECF, which will then send a notification of such filing to all counsel of record.

/s/ Andrew N. Goldfarb
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