



A worker removes the name of the U.S. Agency for International Development from its headquarters on Friday. Kayla Bartkowski/Getty Images

Trump Administration

In Breaking USAID, the Trump Administration May Have Broken the Law

by Anna Maria Barry-Jester and Brett Murphy

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Reporting Highlights

- **Court Fight:** During internal meetings, a political appointee said Trump could not have a higher tolerance for legal risk.
- **Law-Breaking:** Then the administration may have broken multiple laws in crippling USAID, according to experts.
- **"Constitutional Crisis":** Monday will be crucial to see if the Trump administration follows a court order blocking their efforts.

These highlights were written by the reporters and editors who worked on this story. [Were they helpful?](#)

It was the week President Donald Trump had signed a sweeping executive order shutting off the funding for foreign aid programs. Inside the U.S. Agency for International Development, his political appointees gathered shell-shocked senior staffers for private meetings to discuss the storied agency's new reality.

Those staffers immediately raised objections. USAID's programs were funded by Congress, and there were rules to follow before halting the payments, they said. Instead of reassuring them, the agency's then-chief of staff, Matt Hopson, told staff that the White House did not plan on restarting most of the aid projects, according to two officials familiar with his comments.

Then Hopson added a stark coda: Trump could not have a higher tolerance for legal risk, the officials

recalled. They understood the message to mean that the administration was willing to bend or even break laws to get what it wanted, and then take the fight to court. (Hopson, who resigned shortly after, did not respond to numerous phone calls and written messages requesting comment, and he turned away a reporter who came to his door.)

No president in history has unilaterally shuttered an agency formally enshrined in law — let alone deputized his wealthiest donor, Elon Musk, to carry out that task in his name with little oversight or accountability.

While USAID was first created by President John F. Kennedy in a 1961 executive order, Congress passed a law in 1998 to make it an “independent establishment” like others in the cabinet. Multiple administrations, Democratic and Republican alike, built USAID into an institution that has helped save millions of lives around the world, promoted U.S. interests in remote corners of the globe and employed thousands of Americans.

Now Trump and Musk have nearly destroyed it in three weeks. “It’s very hard not to see what’s going on as a constitutional crisis,” said Peter Shane, a law professor and one of the country’s leading scholars on the Constitution. “It’s very scary and tragic.”

Several experts consulted by ProPublica said the new administration may have broken the law almost immediately.

Around Jan. 31, Jason Gray, the acting administrator of USAID, passed along orders to the agency’s IT department to hand the entire digital network to Musk’s engineers, [Luke Farritor](#) and [Gavin Kliger](#), among others. (Farritor, Kliger and Gray did not respond to requests for comment.)

From there, the engineers from Musk’s Department of Government Efficiency quickly gained access to USAID’s financial system. On top of that, they became “super administrators” and had access to thousands of employees’ personal information, including their desktop files and emails, two USAID officials told ProPublica. The material also included information gathered during security clearance background checks, ranging from Social Security numbers and credit histories to home addresses.

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“They had complete access to everything you could think of,” one official said. “The keys to the kingdom.”

By providing that access, USAID may have violated the Privacy Act of 1974, three experts on the law told ProPublica, regardless if the engineers were government employees at the time. The law requires consent from individuals before the government gives their private information to anyone.

“It is a catastrophic privacy and information security violation for a band of some government and some nongovernment personnel to barge into an agency and take over systems that contain personal information,” said John Davisson, director of litigation at Electronic Privacy Information Center and one of the country’s foremost authorities on the Privacy Act. Breaking the law can carry civil penalties and a minimum \$1,000 fine for each violation if the victim can prove they were harmed, or much more if there were damages like loss of income.

With a series of executive orders, Trump established DOGE as a technology unit to improve IT and human resources functions at government agencies. He ordered his cabinet to give “full and prompt access to all unclassified agency records, software systems, and IT systems.” There are exemptions to the Privacy Act if those accessing the personal files have proper authorization, which includes special training and other rules for each set of records, and if they are conducting routine USAID business. But the three experts ProPublica consulted said that doesn’t appear to be the case here.

Davisson and others said that the law, which Congress passed with overwhelming support from both parties in the wake of Watergate, is meant to prevent presidents and others in high office from abusing their access to records for political ends. “The Privacy Act stands at the fountainhead of all this,” he added. “It stops that constitutional crisis from tipping off in the first place.”

For this story, ProPublica spoke with dozens of current and former USAID officials — many of whom requested anonymity because they feared retribution from the administration — and consulted the country’s leading authorities in government structure, federal law and the Constitution. While other [media accounts](#) have detailed several [key moments](#) in the blitzkrieg on USAID, this article provides new details about what Trump and Musk’s lieutenants did, what they said at the time and the objections that those within the government raised along the way.

In addition to the Privacy Act, experts told ProPublica the administration may have broken other laws while violating the Constitution itself, including the separation of powers and a president’s duty to faithfully execute the laws of the land. Failing to notify Congress before making major changes to the agency may have transgressed the Administrative Procedures Act, and freezing money appropriated by Congress for foreign aid could be in violation of the Impoundment Control Act.

Officials and experts have been closely watching the developments at USAID out of fear that Trump will deploy the same playbook to target other agencies he has publicly criticized, including the [Department of Education](#).

The Republican-controlled Congress and Trump’s Department of Justice are unlikely to initiate investigations into allegations of wrongdoing by administration officials. In fact, the DOJ’s acting U.S. attorney in Washington, who was a lawyer for Jan. 6 defendants, signaled the very opposite in a recent series of letters to Musk, promising to investigate people who illegally impeded DOGE’s efforts or even those who just acted unethically “and chase them to the end of the Earth.” The DOJ did not respond to requests for comment.

That leaves lawsuits. On Thursday, federal worker groups sued the administration, accusing Trump of violating the Constitution by systematically disemboweling the agency without congressional approval. The next day, a Trump-appointed judge issued an injunction temporarily halting a major part of the administration’s efforts to reduce USAID’s more than 10,000-person workforce to a few hundred.

The administration argued during a hearing on Friday that the president has acted within his authority and continues to press its case. Trump and his advisers [have long planned](#) to assert in court that presidents have sweeping power to withhold funding from programs they dislike.

The lawsuit is so far the only substantive challenge Trump and Musk have faced since they began dismantling the agency. The judge’s ruling raises questions about what will happen if workers try to use USAID systems or buildings on Monday and are denied access.

“USAID is driving the radical left crazy, and there is nothing they can do about it,” Trump posted that same day, in all capital letters. “Close it down!”

The White House, USAID, the State Department and Musk did not respond to detailed lists of questions for this article. Previously, [the administration has said](#), “Those leading this mission with Elon Musk are doing so in full compliance with federal law, appropriate security clearances, and as employees of the relevant agencies, not as outside advisors or entities.”

Over the past week, they have defended their assault on the agency by repeatedly amplifying the once-fringe sentiment that USAID had become a conduit for wasteful spending, fraud and corruption. The judge on Friday noted the administration provided no evidence to support those claims. But Musk and Trump have successfully fueled intense animosity toward the agency anyway, drumming up support for their effort to destroy it.

“We spent the weekend feeding USAID into the woodchipper,” Musk posted Monday on X. He is the richest man in the world, and his company SpaceX has received at least \$15.4 billion in contracts over the past decade from the same government he has pledged to cleanse of wasteful spending.

“USAID is a criminal organization,” Musk said on X. “Time for it to die.”

In the frenzied days after the arrival of Musk’s engineers at USAID, they used their access to the agency’s IT systems to begin identifying bureaus to cull and programs to terminate, USAID officials told ProPublica. They were working under the direction of another political appointee named Peter Marocco, the director of foreign affairs at the State Department.

Around that time, Marocco drafted the order that required American-funded aid projects around the world to close down. Marocco — who held a leadership role at USAID during Trump’s previous administration, where staff formally accused him of undermining the agency’s mission — did not respond to a list of questions from ProPublica.

After the stop-work orders began going out, Trump’s aides and the DOGE team then turned their focus to the agency’s workforce, which is staffed by civil servants, foreign service officers and contractors. Their initial step was to oust about 60 top supervisors, including the agency’s attorneys.

Next, the administration issued stop-work orders to staffing companies in Washington, effectively laying off hundreds of workers at once. Presidents generally have wide latitude to cancel such contracts, though there is typically a deliberative process. A move like that has never been done at this scale before, experts said. The workers who lost their jobs had no civil service protections.

But that still left the bulk of the direct government workforce. The administration managed to figure out a way to sideline civil servants without officially firing them: They placed hundreds of USAID’s career staff on indefinite administrative leave — with pay but without explanation — or simply locked them out of the agency systems. Some who received no notice used their personal email addresses to ask about their status and received a reply from human resources that they “have likely been placed on administrative leave,” without official confirmation, according to emails obtained by ProPublica.

Taxpayers are currently paying for them not to work. That maneuver went at the heart of what was regarded as a sacrosanct tenet in American government: that civil servants remain outside partisan politics and can’t be fired without due process.

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Jesse Coburn

I’m tracking how the Trump administration reshapes policy at the Department of Housing and Urban Development and the Department of Transportation.



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In another stunning move, Marocco recalled back home 1,400 of USAID's overseas foreign service officers, who were supposed to have similar job protections.

"This is a masterpiece of administrative design," said Donald Kettl, the former dean in the School of Public Policy at the University of Maryland who has written multiple books about government structure. "It's unprecedented in its scale," Kettl added. "Each of these things has been done individually, but never all rolled together as one package and focused strategically like a series of intercontinental ballistic missiles."

Musk's employees told staff they could not come to USAID's headquarters. Guards now stand sentry with a clipboard to block almost everyone from getting inside. On Friday, a maintenance crew took the agency's title off the building's facade.

What happens now is unclear. Friday's court injunction temporarily prevents the administration from placing about 2,000 more people on leave, orders the reinstatement of 500 others and stops the recall of foreign service officials from abroad.

In recent days, ProPublica has interviewed dozens of USAID officials and contractors who have found themselves suddenly out of work and cut off from the government they had devoted their lives to serving. "I am a combat veteran of the U.S. Marine Corps and not a deranged Marxist as Elon is shouting," one employee told ProPublica.

"I have lived through a dictatorship before," said another. "I know what these look like, and the writing is on the wall for me."

A third: "I don't think Americans seem to understand what's at stake here. This is a heist. It's a hostile takeover by malicious actors of our entire government."

At various points, those within the agency who tried standing up against what they considered to be illegal abuses or immoderate management say they were punished for it. "There are no guardrails left," another USAID official told ProPublica. "And there's nobody left to stop it."

The agency's heads of security were put on leave after they blocked Musk's engineers from accessing the classified servers last weekend. Then the same happened to the top human resources officer after he refused to put an additional 1,400 staffers on leave Tuesday. Both episodes were first reported by the trade publication Devex.

Likewise, when the USAID labor director reversed the administration's decision to place almost 60 senior civil servants on leave at the onset, he was put on leave too. "The agency's front office and DOGE instructed me to violate the due process of our employees by issuing immediate termination notices," the labor director wrote in an email to staff.

"It is and has always been my office's commitment to the workforce that we ensure all employees receive their due process," he added. "I will not be a party to a violation of that commitment."

Maryam Jameel



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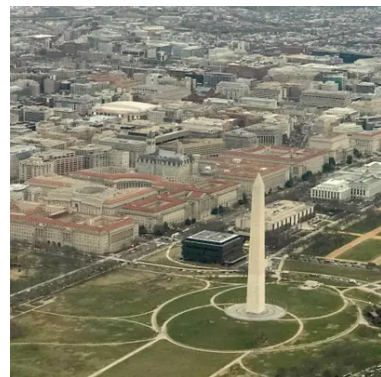
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A security guard stands at the entrance to the USAID headquarters on Monday. Kevin Dietsch/Getty Images

Early last week, Secretary of State Marco Rubio — a staunch supporter of USAID during his time in the Senate — sent Congress a letter saying that the administration “may move” some of the agency’s bureaus under the State Department, the kind of notification that is required 15 days before any major overhaul can take place, according to federal law. He told the lawmakers that the administration intended to work with them on a “review and potential reorganization of USAID’s activities,” and that Marocco would lead the effort.

If it were true, experts say his sentiment would more closely reflect the legal requirements that Congress has laid out since establishing USAID as an independent agency. But experts and government officials said the letter is an inadequate attempt to retrospectively justify what has already occurred.

That difference — between what the administration told lawmakers it was doing to USAID and what it was actually doing — was on display during a previously unreported episode in late January.

In late January, Marocco spoke with congressional aides representing both parties and both chambers. During a series of a half dozen phone calls — he declined to see them in person — the aides asked him to explain the rationale behind the stop-work orders the administration had sent around the world and the process for organizations to receive a waiver from program freezes.

Marocco declined to give substantive responses and claimed the waiver process was operating smoothly, one of the aides told ProPublica.

Marocco said shutting down USAID programs would give the administration an opportunity to see which ones would make America safer and stronger, which was Trump’s promise to voters. He added that he would be personally reviewing programs that requested a waiver and decide which ones should go to Rubio for final approval.



Peter Marocco U.S. Department of Defense

Meanwhile, organizations all over the world remain either grounded under stop-work orders or unable to draw on U.S. funds to continue working, as ProPublica previously reported. The agency put many people who could help process those payments on leave. Among the programs affected were efforts to feed malnourished children in Sudan, bring clean water to refugees in Yemen and deliver medicines to people living with HIV.

During the briefings, the congressional aides acknowledged that there are legitimate things to criticize about USAID. In the past, the agency has been accused of poor oversight of its contractors and interminable support for projects that were meant to end years ago. “I believe the purpose of foreign assistance should be ending its need to exist,” the agency’s former administrator Mark Green once said. And it was the president’s prerogative to focus on programs that align with his agenda. “But,” one of the aides told Marocco, “none of that justifies anything you’re doing.”

Days later, during a recent meeting with USAID staff in Guatemala, Rubio claimed they’d had a “problem” with some people back in the U.S. and that some of the agency’s programs undermined the Trump administration’s goals, according to a transcript of his comments. He also suggested that exceptions to Marocco’s foreign service recall could be made for people with extenuating circumstances, such as pregnant staffers in their third trimester or a person on dialysis.

By Thursday, there were plans to decimate entire USAID bureaus without inviting back the majority of staff on administrative leave. A group tracking the fallout estimates nearly 52,000 American jobs, including those working for vendors and contractors, were already eliminated in the last two weeks. “I fail to understand how having thousands of Americans lose their jobs puts America first,” said Nidhi Bouri, who worked for nearly a decade at USAID, the last two as a political appointee of President Joe Biden.

It’s legally murky if Trump simply keeps them on indefinite administrative leave. Under the Administrative Leave Act of 2016, an individual can only be placed on paid leave for 10 days a year. But a regulation issued by the Biden administration specifies that limitation only applies when that person is under investigation. Legal experts say the interpretation has since been that if there is no investigation, an employee can be placed on leave indefinitely, so long as they continue receiving a paycheck.

Not everyone is sure the Biden-era regulation will hold up in court. “That hasn’t been challenged, and it’s relatively new,” said Nick Bednar, a law professor at the University of Minnesota. “There’s enough of us that think that regulation is inconsistent with statute and if argued in court it might be considered invalid.”



The USAID office in Tegucigalpa, Honduras Orlando Sierra/AFP/Getty Images

It is illegal for the Trump administration to unilaterally dissolve an agency created by Congress, according to legal scholars, government experts and the congressional research facility.

“For all intents and purposes you are dismantling an agency created by Congress, and that’s a violation of the law,” said Lawrence Gostin, a professor at Georgetown Law. “It can’t stand unchallenged, in my view.”

And while a president has broad discretion to make changes to programs and reduce the workforce, the Impoundment Control Act prevents him from withholding money appropriated by Congress, the experts said.

“If it turns out that the president can eliminate or defund an agency on a whim, then ultimately Congress is stripped of all power over the budget,” said Jessica Riedl, a senior fellow at the Manhattan Institute, a conservative think tank. “That would create a precedent that destroys the separation of powers.”

It will be the courts that decide if and to what extent Trump’s takeover of USAID violated federal law.

Many legal experts in and outside of government believe this was the administration’s plan all along: drag out Trump’s most aggressive and controversial policy decisions in court for so long that by the time any permanent judgment comes down, favorable or not, USAID will be nothing but a memory.

“They don’t seem to care what the statutes say,” said Kevin Owen, an attorney who represents both management and federal workers in employment disputes. “The plan from the employment perspective was to fire them all and make them sue. If the administration loses the court cases, so be it. The damage is done.”

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I report on global public health and the agencies that govern it, including the NIH, IHS, USAID and CDC.

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