

United States Senate

Washington, DC 20510

April 8, 2021

The Honorable Antony Blinken
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Blinken,

We write with concern regarding plans by the Biden-Harris administration to pour hundreds of millions of American taxpayer dollars into territories controlled by the Palestinian Authority (PA) and the Iran-backed terrorist group Hamas. We call on you to halt these expenditures until the State Department accounts for statutory restrictions and remedies known deficiencies in the distribution of such assistance, which have for years promoted and facilitated terrorism against Americans and Israelis.

On March 29, the *Associated Press* (AP) revealed that the State Department and United States Agency for International Development (USAID) had notified Congress of their intention to provide \$75 million to the Palestinians in general economic support. The notification had been transmitted without public acknowledgement, and the State Department repeatedly and publicly declined to comment about it when asked by reporters. In contrast, the week before, the State Department had publicly and repeatedly announced a \$15 million program to assist Palestinians in containing the COVID-19 pandemic. On April 6, the AP revealed and detailed another congressional notification related to Palestinian aid that had been transmitted without public acknowledgement, this one for \$40 million for security and law enforcement. On April 7, the State Department issued a statement confirming the reported aid and some of the details.

It is unacceptable that the Biden-Harris administration would seek to dampen public debate over these vast sums of general assistance. Since 1993, the U.S. government provided more than \$6.3 billion to the Palestinians with the aims of, first, advancing the Palestinians' capacity to build a state and, second, insulating and distancing Palestinian governance from terrorism. Measured by the degree to which they have achieved those aims, U.S. programs have not just failed but have been counterproductive, with the money facilitating terrorist incitement and making its way to terrorists. In just the last few weeks, U.S. government documents and announcements by the Palestinians have made clear those failings were systematic and structural.

If a Palestinian state was established today it would be a failed state, lacking political institutions, economic viability, a monopoly on the use of force by internal groups, and a non-terrorist government capable of exerting sovereignty over all claimed territories. PA President Mahmoud Abbas was elected to a four year term in 2005 but no subsequent presidential

election has taken place, the Palestinian economy suffers from endemic corruption and requires outside intervention to function, Palestinian officials routinely blame violence and rocket attacks against Israelis on groups ostensibly beyond their control, and control over Palestinian areas is fractured between Fatah and Hamas.

Meanwhile the PA has funneled hundreds of millions of dollars every year to reward Palestinian terrorists and their families, with increased rewards in proportion to increased casualties. Among the beneficiaries of these so-called “pay-for-slay” programs was the family of Bashar Masalha, who in 2016 stabbed 11 people near Tel Aviv and murdered 28-year old U.S. Army veteran Taylor Force.

In response to these failures and outrages, a bipartisan consensus formed across the U.S. government that aid to the Palestinians should be curtailed until the PA ends its pay-for-slay payments. The policy rationale is straightforward: money is fungible, and so any aid that directly benefits the PA indirectly supports the PA’s rewards for terrorism. In 2018 Congress passed and President Trump signed into law the Taylor Force Act (TFA) (Title X of P.L. 115-141), which restricts funding for programs and assistance that “directly benefit[]” the PA until the PA ceases pay-for-slay rewards and rescinds the laws authorizing and implementing those rewards. In January 2019, the U.S. ceased providing bilateral funding to programs in Palestinian areas, including those targeted the TFA.

The necessity and wisdom of those decisions has been confirmed by multiple reports, assessments, and developments, including from the days and even hours leading up to the recent notifications –

- On March 18, the State Department transmitted an unpublicized report to Congress pursuant to its obligations under the TFA, which confirmed that the PA has in recent years funneled hundreds of millions of dollars toward terrorists and their families, and that in 2019 alone the PA expressed its intention to spend approximately \$342.6 million on such rewards. It noted that “the PA has not revoked any law, decree, regulation, or document authorizing or implementing” that system of payments. The existence and details of the report were revealed by the *Washington Free Beacon*, which noted the report said “[t]he Biden-Harris Administration has made clear its intent to restart assistance to the Palestinians” but “[i]t remains unclear how the Biden administration will restart American aid without violating [TFA].”
- On March 19, the Government Accountability Office (GAO) issued a report finding that for the fiscal years 2015-2019, when USAID was distributing Palestinian assistance, USAID “did not consistently ensure” that those grants would not be passed along to terrorist groups and terrorists. The GAO recommended that, should funding resume, USAID should “(1) verify prime awardees have procedures to ensure compliance with requirements before making subawards and (2) conduct post-award compliance reviews in time to make corrections before the awards end.” It also noted that “USAID agreed with the recommendations.”

- On March 26, the General Secretary of Fatah, the party that controls the PA, revealed that Fatah and Hamas were working towards a consensus document for unity control over the PA after upcoming elections. The announcement came after months of talks aimed at such an agreement, including through the exchange of messages outlining the groups' mutual agendas, the negotiation of a plan to establish a fused government, and the setting of spring elections.

The unpublicized notification described by the AP appears to be a reference to a USAID “program narrative” transmitted to Congress on March 26, appropriating \$75,000,000 in Economic Support Funds (ESF) for “programs that USAID/West Bank and Gaza intends to carry out,” with funding able to commence 15 days after the notification was received, i.e. April 10. The notification describes new assistance that would go towards, inter alia, “municipal roads,” “internal roads, sidewalks, safe and designated bus parking lots, and driving routes,” “reservoirs, pump stations, water distribution and transmission networks,” “basic commodities,” “emergency preparedness,” “community initiatives,” “safe spaces to engage in community initiatives,” and “building the resilience of the Palestinians to climate change and strengthening their adaptation to climate change.”

These activities are the governance responsibility of the PA, and Congress prohibited American assistance to such activities against the backdrop of the PA using its available resources for pay-for-slay programs. In fact, Congress explicitly and narrowly enumerated in TFA what Palestinian governance programs should nevertheless still receive assistance: wastewater projects, childhood vaccination programs, and payments to East Jerusalem hospitals. The programs described in the March 26 USAID notification do not fit into those exceptions and so likely violate the TFA.

Instead the Biden-Harris administration should focus on the necessary programs Congress has consistently envisioned, and for which it has appropriated resources and carved out exceptions from restrictions on assistance, including those related to critical medical and wastewater sanitation programs that the Palestinian people immediately need.

We urge you to pause the new programs described in the program narrative transmitted to Congress on March 26 until USAID has –

1. Implemented the recommendations described in the March 19 GAO report.
2. Certified to Congress how such aid is compliant with the TFA and other Congressionally imposed restrictions, and fully briefed members on the rationales for such certifications.
3. Clarified to Congress in an unclassified format what the Biden-Harris administration and the State Department understand to be programs that “directly benefit[]” the PA pursuant to the TFA, and the degree to which those understandings differ from either explicit or implicit past guidance used by the State Department.
4. Ensured that necessary aid being provided to the Palestinians, including as envisioned by Congress and described in the TFA, is tightly targeted to ensure that it benefits the Palestinian people and not the PA or Hamas.

As always, we stand ready to assist you in ensuring that American assistance does not go to terrorists.

Sincerely,



Ted Cruz
United States Senator



Tom Cotton
United States Senator



Todd Young
United States Senator



Marco Rubio
United States Senator



John Barrasso, M.D.
United States Senator



Steve Daines
United States Senator



Rick Scott
United States Senator



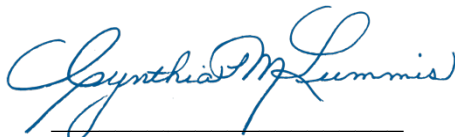
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United States Senator



Susan M. Collins
United States Senator



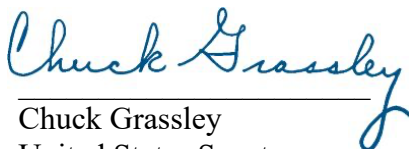
Mike Braun
United States Senator



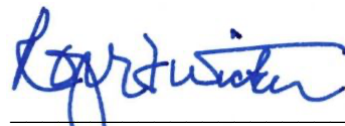
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Roger Marshall, M.D.
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