



USAID
FROM THE AMERICAN PEOPLE

December 17, 2015

Mr. Eric Guarduno
Catholic Relief Services
228 West Lexington Street
Baltimore, Maryland 21201

Dear Mr. Guarduno:

Thank you for your letter dated September 15, 2015, wherein you provided comment and questions related to the Request for Comment on the Continued Use of the Partner Information Form. In compliance with the Paperwork Reduction Act requirements and an effort by USAID to be transparent in the development of partner vetting at the Agency, please accept the following responses to your comments and questions in the order they were presented in your letter.

- (a) Whether the continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- The collection of this information is not a proper performance of the functions of the agency. While we share the agency's goal of ensuring no funds are used to support terrorists, the collection of this information represents a fundamental shift in the nature of US foreign assistance. As a result of partner vetting, USAID funded foreign assistance will begin to be viewed as a tool used by US military, law enforcement and intelligence agencies to collect detailed information of community members in where USAID funded programs operate in. In short, instead of the helping hand USAID assistance has traditionally be viewed as, it will begin to be viewed as a means for the US to spy on foreign countries. This will undermine the positive impact and success USAID programs currently achieve.

USAID Response:

We understand the concern expressed by organizations that collecting PII suggests a linkage with U.S. intelligence gathering. However, as we noted in our response to comments to the PVS Assistance Rule,

- PVS is not a U.S. intelligence collection program.
- USAID is not a Title 50 Agency and is not authorized by law to collect intelligence information.

- USAID complies with all laws and regulations regarding information collection, usage, and storage.

In addition, given the standard assumption that an exchange of personal information is required as a part of government employment and government funding opportunities, the provision of personally identifiable information for that purpose is not extraordinary, and its collection does not imply an improper use. USAID has a responsibility to take necessary actions to effectively safeguard U.S. taxpayer funds from misuse, as well as to deprive terrorist organizations and their supporters of resources that might be diverted to fund their operations. USAID's experience has been that organizations advancing humanitarian and foreign assistance operations adapt to such requirements, and we believe that the requirements of PVS will not preclude our implementing partners' ability to find subcontractors and/or employees abroad. USAID's experience with vetting demonstrates that foreign assistance programs can operate effectively while implementing vetting programs.

USAID will continue to consider these issues when evaluating the effectiveness of the PVS pilot program.

- The vast amount of information collected will not have practical utility. According to the recent final rule for assistance awards published in the Federal Register, existing vetting has only flagged 1.5-2.5% of total awardees vetted. This means that for the overwhelming number of vetted organizations - at least 97.5% - there were no vetting issues. For these organizations going to the vetting process is a huge waste of time and resources. We encourage the agency to look for ways to meet the objectives they are trying to achieve with partner vetting in a way that avoids such an unproductive and massive collection burden.
- We also believe this collection is not necessary. Organizations like Catholic Relief Services already employ strong due diligence systems to filter out bad actors. These practices have a better chance of ferreting out bad actors than USAID's system because they incorporate local knowledge of existing community members.

USAID Response:

As mentioned in USAID's related rulemaking on partner vetting, USAID takes a number of steps to minimize the risk that our funds and other resources might inadvertently benefit individuals or entities that are terrorists, supporters of terrorists, or affiliated with terrorists.

- USAID requires inclusion of clauses in its solicitations, contracts, grants, cooperative agreements, and other comparable documents that remind our contractor and grantee partners of U.S. Executive Orders and U.S. law prohibiting transactions with, and the provision of support and resources to, individuals or entities that are terrorists, supporters of terrorists, or affiliated with terrorists.
- USAID also requires anti- or counter-terrorist financing certifications from all U.S. and non-U.S. non-governmental organizations seeking funding from USAID under grants and cooperative agreements.
- USAID contracting and agreement officers, prior to making awards of agency funds, check the master list of specially designated nationals and blocked persons maintained by OFAC.

Given the range of activities carried out by USAID and the range of circumstances under which they are implemented, vetting is an appropriate higher level safeguard that USAID can conduct and its implementing partners cannot since USAID can check personal identifying information of key individuals of contractors, grantees, and sub-recipients against information in non-public, U.S. Government databases. To date, all ineligible determinations from USAID's vetting process have been derived from information obtained from U.S. Government databases and not from other publicly available sources. Moreover, while the percentage of entities found to be ineligible under USAID's vetting programs may appear to be small in scope, our experience with vetting potential awardees and sub-awardees in certain high-risk areas indicates that a higher percentage of those entities have been deemed to be ineligible. As a result of our Afghanistan vetting program, USAID has prevented more than \$100 million from being awarded to entities that did not meet our vetting requirements.

In sum, rather than duplicating current due diligence efforts made by USAID and our partners, PVS complements these efforts by providing USAID with another method to help mitigate the risk that USAID resources could inadvertently benefit individuals or entities that are terrorists, supporters of terrorists or affiliated with terrorists, while also minimizing the impact on USAID programs and its implementing partners.

- Our experience with the partner vetting process has shown it slow program implementation which runs counter to the partner vetting system's practical utility. From the perspective of the implementer, vetting decisions take an unpredictable amount of time and can make planning and implementation of activities difficult. Further, it is

unrealistic to expect that all contractors and sub-recipients will be identified and vetted at the outset of the award. Inevitably there will be a need for vetting during implementation, which will lead to delays and potentially disruption of implementation. Further, vetting can undermine program objectives as indicated in a recent report available at http://pdf.usaid.gov/pdf_docs/pbaaa370.pdf (see pages 157-176).

USAID Response:

USAID's goal is to achieve the purpose behind any new requirement in the most efficient manner that will minimize any potential negative impact on implementation of activities. We have sought the input of mission and Washington based staff who will be implementing the program in order to construct the pilot in a way that will prevent disruption of implementation. We have also implemented various IT solutions including the secure portal to improve partner engagement.

(b) The accuracy of the burden estimates;

- The proposed data collection assumes that it will take 75 minutes to complete a PIF submission. PIFs require information on key individuals, including an organization's President, Vice President, Executive Director, Deputy Executive Director, Chief Executive Officer, Chief Operating Officer, Treasurer, Secretary, its Board of Directors, and also Program Managers or Project Managers. We estimate that each organization making a submission will have to provide vetting information for up to 15 people, which in itself is excessive and an undue burden. Furthermore, we believe it will take a minimum of 15 minutes to collect and input the necessary information into the system for each individual. Considering these factors, we believe a reasonable time burden estimation is 225 minutes to complete a PIF submission for each organization.
- Additionally, the 75 minute time burden estimation to fill out the PIF does not take into account that prime awardees will also have to explain the purpose of the PIF collection to sub-awardees, and provide them with guidance on how to successfully provide their required information. At minimum, this will require face-to-face meetings between prime awardees and potential sub-awardees, and in some cases may include travel costs and travel time. We estimate that a prime awardee will need at minimum 120 minutes to explain vetting and provide support to each sub-awardee subject to vetting.

USAID Response:

USAID's burden estimate is based in part on our existing vetting programs and is meant to serve as a baseline for the pilot program, which will allow the Agency to get a better sense of the burden on our implementing partners. USAID intends to request input from implementing partners on the operational and administrative costs incurred during the pilot so that these costs may be considered in our evaluation of the pilot.

- (c) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.
- If an individual or organization has already been vetted by USAID, it is a very inefficient use of time and effort for another organization to collect that same information again. Under the current structure, if information is collected and submitted for an entity who has previously cleared vetting, the second prime awardee working with the same sub-recipient has to wait for USAID to respond and confirm they have been vetted which can take a very long time. It would be extremely helpful if USAID would check to see if proposed sub-recipients or individuals have already been vetted and cleared prior to an organization going through the process of collecting the same information again for the PIF.
 - As an alternative to the current system, USAID should consider establishing a cleared list system where all prospective implementing partners can have their organizations vetted. Once vetted, these organizations then are put on a "cleared list" and are then free to engage in USAID funded work so long as they maintain their cleared status. Such a cleared list can be made public, so organizations know who they can partner with ahead of time. This would relieve the burden from prime awardees of having to collect all the required information and assume the associational risk that they are aiding US spying efforts.
 - Given the indefinite period of time vetting normally takes, and the uncertainty for programming this causes, we would encourage USAID to establish a fixed timeframe in which they will be required to provide a vetting determination.

USAID Response:

In prior public comments, USAID stated that an applicant's PII will not be used to create a "blacklist" of organizations and/or individuals who will be barred from seeking U.S. government contracts and grants. Using the information for that purpose would constitute a de facto suspension or debarment, which is contrary to law. Organizations and key individuals are vetted based on a specific contract or grant to be considered for an award. Findings based on vetting results do not preclude an organization's eligibility to bid on subsequent solicitations. With

respect to prior eligibility findings, the same organization may apply for a new award, but the key individuals at the project level may change on a per award basis, creating a need for USAID to vet each award. In addition, available information may change over time, and a "cleared list" approach would not capture recent updates.

As we encourage and facilitate communication between the implementing partner community and the Agency, please feel free to contact me with any other questions you may have regarding the implementation of the pilot and other vetting activities at USAID.

Sincerely,



Colleen R. Allen

Director

Office of Management Policy, Budget and Performance

Bureau for Management