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Description of document: United States Agency for International Development (USAID) Legal Considerations Issue Spotter (for use during Activity Development) 2024

Requested date: 06-June-2024

Release date: 23-December-2024

Posted date: 20-January-2025

Source of document: FOIA Request
U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
USAID Annex, M/MS/IRD, Room 2.4.0A
Washington, DC 20523
Fax: (202) 916-4990
Email: foia@usaid.gov
[USAID FOIA Public Access Link](#)

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TRANSMITTED VIA EMAIL

December 23, 2024

Re: FOIA Request No. F-00370-24
Final Response

The U.S. Agency for International Development (USAID) regrets the delay in responding to your Freedom of Information Act (FOIA) request. Unfortunately, USAID is experiencing a backlog of FOIA requests. Please know that USAID management is very committed to providing responses to FOIA requests and remedying the FOIA backlog.

This is the final response to your June 6, 2024, Freedom of Information Act (FOIA) request to the U.S. Agency for International Development (USAID). You requested “a copy of the USAID document entitled: "Legal Considerations Spotter during Activity Development." This document was first developed in January 2014 and revised in 2015 and used at the agency.”

For your information, Congress excluded three (3) discrete categories of law enforcement and national security records from the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all of our requesters and should not be construed as an indication that excluded records do, or do not, exist.

USAID conducted a comprehensive search of the Bureau for Conflict Prevention and Stabilization (CPS) for documents responsive to your request. The search produced a total of 1 page that is being released in its entirety.

If you require any further assistance or would like to discuss any aspect of your request, you may contact Julia Cruz the assigned FOIA Specialist by phone on (771) 444-1452 or julee@usaid.gov. You may also contact USAID’s FOIA Public Liaison, Christopher Colbow, at foia@usaid.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services offered:

Office of Government Information Services
National Records and Archives Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail: ogis@nara.gov
Telephone: (202) 741-5770; toll free at 1-877-684-6448
Fax: (202) 741-5769

You have the right to appeal this final response. Your appeal must be received by USAID no later than 90 days from the date of this letter. If you would like to appeal this disclosure determination, please send your appeal to foia@usaid.gov, and address it to the Office Director of the Bureau for Management, Office of Management Services. In addition, please include your tracking number F-00370-24 final response in your email.

There is no charge for this FOIA request. As this concludes the processing of your request, it will be closed.

Thank you for your interest in USAID.

Sincerely,

**Tiffanie
Woodland**

Digitally signed by
Tiffanie Woodland
Date: 2024.12.20
15:40:49 -05'00'

Christopher Colbow, Chief
FOIA Public Liaison
FOIA Officer/Agency Records Officer
Bureau for Management
Office of Management Services
Information and Records Division

Enclosures: Responsive Records (1 page)

LEGAL CONSIDERATIONS ISSUE SPOTTER

(for use during Activity Development)

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Below are some key legal issues to consider during activity development. Although some of these issues arise relatively infrequently, they can have serious legal and audit implications. Please refer to this list prior to activity approval. If an activity raises any of these issues, please refer to the applicable fiscal year Statutory Country and Activity Checklists (which contain more detail regarding the issues involved), and coordinate further with the Program Office and/or GC/R3 before proceeding. We may still be able to implement an activity that involves one of these issues, but additional consideration, legal review, or a waiver may be needed to ensure the activity falls within the appropriate guidelines. Please note that this is not an exhaustive list of legal issues that may arise. This guidance is for reference purposes only and does not constitute legal advice.



Activities involving the **police, prisons, military, or other security forces** (including informal groups or militias), or military/police/surveillance equipment



Establishment Clause issues – e.g., religious activities or activities involving religious holidays; activities where beneficiaries are chosen with reference to religion; activities that prefer/benefit one religion or religious interpretation over another.



Procurement of key **restricted or ineligible commodities** (see ADS 312):

- a. **Restricted (need waiver/approval):** non-U.S. manufactured motor vehicles, agricultural commodities (e.g., certain major crops, flour, and oils), fertilizer, pesticides, pharmaceuticals, condoms, contraceptives, used equipment
- b. **Ineligible (can't procure):** luxury goods (includes alcohol), military/law enforcement/surveillance equipment, abortion equipment, gambling equipment, weather modification equipment



Prior approval of democracy/HR/governance activities by host government (Brownback)



Capital assistance (e.g., a construction activity) that exceeds \$1 million (may require a certification by the Mission Director and the CPS/AA).



Provision of **cash** (as opposed to in-kind assistance) to government entities or officials.



Activities that may require **"discretion"** for either effectiveness or safety/security purposes



Law Enforcement in Parks or Protected Areas – Requires the addition of certain provisions in agreements with IPs.



Sanctions/terrorist financing issues – e.g., activities in spaces where terrorist groups are operating; activities involving individuals formerly affiliated with terrorist groups; activities related to a peace process that may involve participation of sanctioned groups



Health-related restrictions – e.g., legal reform initiatives/other activities that touch on abortion; health care provision; support for health care research; provision of equipment that relates to abortion, involuntary sterilization, or family planning (e.g., when doing hospital rehab).



Providing support to host **government officials** to attend **international conferences**



Exploitation of **workers** or disregard of workers' rights in a manner inconsistent with the level of development of the recipient country



Data Breaches – From improperly shared PII to cyber attacks, must be reported immediately,



Disinformation Campaigns – May only be done for the purpose of countering such efforts by foreign state and non-state actors abroad.



Engaging with Social Media Platforms – USAID cannot significantly encourage or coerce social media companies to take content moderation actions in violation of the First Amendment.



Diversion – Depending on the year of the funds, USAID must promptly inform Congressional committees of each instance in which foreign assistance has been diverted or destroyed.