

Protecting Life in Global Health Assistance
Frequently Asked Questions

- On January 23, 2017, President Trump issued a Presidential Memorandum to reinstate the January 22, 2001 Presidential Memorandum on the “Mexico City Policy” and direct the Secretary of State, in coordination with the Secretary of Health and Human Services, to implement a plan to extend the Mexico City Policy to “global health assistance furnished by all departments or agencies.” <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-mexico-city-policy>
- On May 15, 2017, after a thorough process involving senior-level staff from all relevant U.S. government agencies, former Secretary Rex Tillerson announced a plan that outlined the manner in which U.S. government departments and agencies would apply the provisions of the Mexico City Policy to all foreign non-governmental organizations (NGOs) that receive U.S. funding for global health assistance.
- The policy, known as “Protecting Life in Global Health Assistance” (PLGHA), went into effect on May 15, 2017, consistent with the President’s directive that no U.S. taxpayer money should support foreign organizations that perform or actively promote abortion as a method of family planning in other nations.
- Under this policy, “global health assistance” includes U.S. funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and voluntary family planning and reproductive health. Protecting Life in Global Health Assistance applies to global health assistance to, or implemented by, foreign NGOs, including those to which a U.S. NGO makes a subaward with global health assistance funds.
- Global health assistance to national or sub-national governments, public international organizations, and other multilateral entities in which sovereign nations participate is not

August 27, 2018

subject to this policy. For example, this includes funding to the Global Fund to Fight AIDS, Tuberculosis and Malaria; GAVI, the Vaccine Alliance; and United Nations organizations such as the Joint United Nations Programme on HIV/AIDS and the World Health Organization. Also excluded is humanitarian assistance, including Department of State migration and refugee-assistance programs, USAID disaster and humanitarian-relief programs, and U.S. Department of Defense disaster and humanitarian relief.

- All foreign NGOs will have the opportunity to receive global health assistance awards if they indicate their agreement to abide by the terms of Protecting Life in Global Health Assistance by accepting the provisions in their award.
- The U.S. government remains committed to supporting health programs around the world. Protecting Life in Global Health Assistance does not reduce the amount of global health assistance the U.S. government makes available. U.S. government departments and agencies will reprogram to other organizations any funding they would have awarded to NGOs that do not agree to the conditions set on the acceptance of U.S. funding under Protecting Life in Global Health Assistance.
- On February 7, 2018, the Department of State released the six month review of the PLGHA policy, which summarizes the efforts of U.S. government departments and agencies to implement the PLGHA policy, and identifies implementation challenges that have arisen. The six-month review, including follow-on actions, is available at <https://www.state.gov/f/releases/other/278012.htm>, and at <https://www.usaid.gov/what-we-do/global-health/cross-cutting-areas/legislative-policy-requirements>. The review identifies several actions related to implementation, compliance, and oversight. In particular, departments and agencies will work to clarify certain aspects of the policy, including through revision to the PLGHA standard provision inserted in all covered grants and cooperative agreements, and provide updated training and tools to implement it. In addition, we expect to conduct an additional review of the policy by the end of 2018.

August 27, 2018

- Once the process to revise the standard provision is complete, we will issue further guidance for implementing partners, and revise these answers to frequently asked questions (FAQs) to reflect the changes to the standard provision. Pending such further guidance, implementing partners that have agreed to the PLGHA standard provision remain subject to the terms of the provision in their award(s).

1. What is Protecting Life in Global Health Assistance? How does it differ from the Mexico City Policy that was in effect from 1984-1993 and 2001-2008?

In 1984, President Ronald Reagan introduced the “Mexico City Policy,” which required foreign NGOs to agree that they would not “perform or actively promote abortion as a method of family planning” as a condition of receiving family-planning assistance from the U.S. Agency for International Development (USAID). President Donald Trump signed a Presidential Memorandum on January 23, 2017, that directed the Secretary of State, in coordination with the Secretary of Health and Human Services, to implement a plan to reinstate the Mexico City Policy and extend its requirements to all global health assistance provided by any U.S. government department or agency, to the extent allowable by law. In furtherance of the Presidential Memorandum, former Secretary of State Rex Tillerson approved a plan to implement the new policy, which is called “Protecting Life in Global Health Assistance.”

President Trump’s initiative applies, to the extent allowable by law, to “global health assistance furnished by all departments or agencies,” while the previous “Mexico City Policy” applied only to voluntary family planning assistance funded by USAID and assistance for certain voluntary population planning furnished by the Department of State.

2. Does this mean that U.S. NGOs that implement global health programs are prohibited from providing Federal global health assistance funding to any foreign NGOs that perform or actively promote abortion as a method of family planning, even if the foreign NGOs conduct such activities with non-Federal funding?

Yes. U.S. NGOs that receive global health assistance may not provide such global health assistance to any foreign NGO that performs or actively promotes abortion as a method of family planning or that provides financial support to any other foreign NGO that conducts such activities. (FAQ #17 defines “actively” promoting an abortion. FAQ #27 lists exceptions to the policy.)

3. What is the “global health assistance” covered by Protecting Life in Global Health Assistance?

Under this policy, “global health assistance” includes funding for international health programs, such as those for HIV/AIDS; maternal and child health; nutrition; infectious diseases, including malaria and tuberculosis; global health security; and voluntary family planning and reproductive health.

[For State and USAID, this means the policy applies to awards with health funding from the Global Health Programs (GHP), Economic Support Fund (ESF), and Assistance for Europe, Eurasia, and Central Asia (AEECA) or successor accounts that are reported on under the “Health” category of the Foreign Assistance Standardized Program Structure, except:

- Water activities reported under program area HL.8, “Water Supply and Sanitation”;
- The American Schools and Hospitals Abroad Program; or
- The Food for Peace program.

The policy does not apply to any activities programmed under categories other than the Health category of the Foreign Assistance Standardized Program Structure.]

[For The Department of Health and Human Services (HHS), global health assistance at this time includes funding transferred to HHS from the Department of State, USAID, or the U.S. Department of Defense (DOD) for international health programs, such as those

August 27, 2018

for HIV/AIDS, maternal and child health, tuberculosis, malaria, and global health security. PLGHA applies to global health assistance provided to, or implemented by, foreign NGOs, including those to which a U.S. NGO issues a subaward with such funds.]

[For DoD, global health assistance applies to the Defense HIV/AIDS Prevention Program, which works around the world to reduce the transmission and impact of HIV/AIDS in partner militaries, in close coordination with the U.S. President's Emergency Plan for AIDS Relief.]

4. Does the Protecting Life in Global Health Assistance standard provision have to be included in an integrated award where the primary source of funding is not global health assistance?

Yes. The standard provision must be included in integrated awards that include any funding for global health assistance.

5. Will Protecting Life in Global Health Assistance affect programs like the President's Malaria Initiative (PMI) or the U.S. President's Emergency Plan for AIDS Relief (PEPFAR)?

Yes. This policy applies to awards for PEPFAR and PMI.

PEPFAR and PMI will continue to implement their life-saving activities through NGO partners around the world that comply with the Protecting Life in Global Health Assistance policy.

6. What types of assistance does Protecting Life in Global Health Assistance cover?

Protecting Life in Global Health Assistance covers the provision of funds, commodities, equipment, or other in-kind global health assistance to a foreign NGO. At this time, the policy covers global health assistance provided through grants, cooperative agreements,

August 27, 2018

and in-kind assistance. The policy will not cover contracts until the completion of a rule-making process. However, the policy does cover grants under contracts at this time.

7. When does the Protecting Life in Global Health Assistance standard provision need to be included in an award?

(a) For USAID and Department of State assistance awards, beginning May 15, 2017, the standard provision must be included in (i) all new grants and cooperative agreements that provide global health assistance; (ii) all existing grants and cooperative agreements that provide global health assistance when such agreements are amended to add new funding; and (iii) all existing agreements that previously received USAID's March 2017 Mexico City Policy standard provision when such agreements are next modified, or as soon as reasonably practicable.

(b) For HHS assistance awards, beginning May 31, 2017, the HHS Standard Provision must be included in all grants or cooperative agreement awards that receive global health assistance funding. For DoD awards, beginning May 15, 2017 the appropriate standard provision must be included in grants and cooperative agreement awards that receive global health assistance funding.

(c) For contracts, the Administration has developed and submitted to the Federal Acquisition Regulation Council a draft corresponding clause for all U.S. government departments and agencies to include in certain types of contracts for global health assistance. Until the rule-making process is complete, no clause will be included in contracts awarded by any department or agency that provide global health assistance. [However, the policy covers grants made under USAID contracts at this time.]

8. Who must comply with Protecting Life in Global Health Assistance?

Protecting Life in Global Health Assistance applies to global health assistance to, or implemented by, *foreign NGOs*. This includes global health assistance that a U.S. NGO provides to a foreign NGO through a subaward.

9. What is a foreign NGO for purposes of Protecting Life in Global Health Assistance?

For purposes of the policy, a foreign NGO is a for-profit or not-for-profit non-governmental organization not organized under the laws of the United States, any U.S. State or Territory, the District of Columbia, or the Commonwealth of Puerto Rico. Please note that this definition of a foreign NGO for Protecting Life in Global Health Assistance is different from the definition of a “foreign organization” in 2 CFR 200.47 and the definition above applies specifically for the purposes of this policy.

10. Does Protecting Life in Global Health Assistance apply to foreign governments or public international organizations?

No. Protecting Life in Global Health Assistance *does not* apply to agreements with national or sub-national foreign governments, public international organizations, or other multilateral entities in which sovereign nations participate. For example, this includes funding to The Global Fund to Fight AIDS, Tuberculosis, and Malaria; GAVI, the Vaccine Alliance; and United Nations organizations, such as the Joint United Nations Programme on HIV/AIDS and the World Health Organization. Therefore, the standard provision does not need to be included in agreements with host governments (e.g., government-to-government agreements, Development Objective Agreements [DOAGs], or other agreements with host governments), agreements with bilateral governmental donors, or agreements with public international organizations.

11. Does Protecting Life in Global Health Assistance apply to parastatals?

No. Parastatals are not subject to the policy. A parastatal is an entity owned (in whole or in part), or controlled by, a foreign government. Whether an entity is a parastatal is a fact-specific determination on which recipients should consult with their legal counsel, and with the Agreement/Grants Officer at the relevant U.S. government department or agency.

12. Does Protecting Life in Global Health Assistance apply to U.S. NGOs?

No. U.S. NGOs are not required to agree that they will not perform or actively promote abortion as a method of family planning as a condition of receiving global health assistance funds. However, the policy requires U.S. NGOs to agree not to make a subaward of global health assistance to a foreign NGO unless that foreign NGO agrees to abide by the terms of Protecting Life in Global Health Assistance. For purposes of the policy, a U.S. NGO is a for-profit or not-for-profit non-governmental organization that is organized under the laws of the United States, any U.S. State or Territory, the District of Columbia, or the Commonwealth of Puerto Rico.

13. What does the standard provision require for a U.S. NGO that issues a subaward to a foreign NGO?

U.S. NGOs that receive global health assistance may not provide such assistance to a foreign NGO unless that foreign NGO agrees to the policy by accepting the standard provision into its subaward. Implementing partners that have agreed to the PLGHA standard provision are responsible for ensuring compliance with its terms.

14. What does a foreign NGO that accepts the [For State/USAID: May 15, 2017] [For HHS: May 31, 2017] Protecting Life in Global Health Assistance standard provision agree to do?

A foreign NGO that accepts the [For State/USAID: May 15, 2017] [For HHS: May 31, 2017] Protecting Life in Global Health Assistance standard provision, whether as a prime or subrecipient, agrees that it will not, with funding from any source, “perform or actively promote abortion as a method of family planning in foreign countries or provide financial support to any other foreign NGO that conducts such activities.” [For State/USAID: Each organization will have the opportunity to indicate its agreement to abide by the

terms of Protecting Life in Global Health Assistance by accepting the standard provision in its award.] [For HHS: Each organization will have the opportunity to indicate its agreement to abide by the terms of Protecting Life in Global Health Assistance when the recipient draws down funds in its award.]

15. How does Protecting Life in Global Health Assistance apply to subawards?

- (a) **In General:** Foreign and U.S. NGOs that are prime recipients of grants and cooperative agreements are required to include the Protecting Life in Global Health Assistance standard provision in agreements with subrecipients in accordance with the terms of the provision.
- (b) **Procurements under assistance awards:** Recipients of grants and cooperative agreements that procure goods or services under their awards are *not* required to apply the standard provision to such procurements at this time. (See also FAQs #6 and #7.)
- (c) **Grants under contract:** Contractors are required to include the Protecting Life in Global Health Assistance standard provision in grants made under contracts [USAID: in accordance with the guidance in Automated Directives System (ADS) Chapter 302.3.5.6(b)(1), because USAID must ensure the requirements that apply to USAID-executed grants also apply to grants that a USAID contractor executes].

16. Are implementing partners required to flow down the Protecting Life in Global Health Assistance standard provision to foreign NGOs under their award immediately or whenever they provide funding under a subaward to an NGO?

The standard provision requires that, prior to entering into an agreement to furnish global health assistance to a foreign NGO subrecipient, a recipient of U.S. global health assistance must ensure such agreement with the foreign NGO subrecipient includes the

August 27, 2018

standard provision. At a minimum, the following scenarios are agreements to furnish global health assistance between a recipient and its subrecipient:

- (a) A new subaward that provides global health assistance; and
- (b) An amendment of an existing subaward to add any new U.S. government global health assistance funding.

17. What constitutes “actively promoting” abortion?

“Active promotion” of abortion as a method of family planning includes, for example, abortion counseling, referrals (except for passive referrals), lobbying, and public-information campaigns. Referrals for abortion in cases of rape, incest, or endangerment of the life of the mother are not prohibited.

18. What is a “passive referral”?

Providers are permitted to respond to a question regarding where a safe, legal abortion may be obtained if a woman who is already pregnant specifically asks the question, she clearly states that she has already decided to have a legal abortion, *and* the healthcare provider reasonably believes that the ethics of the medical profession in the host country require a response regarding where the procedure is available safely and legally. A passive referral is allowed when *all* of these conditions are met.

19. Are post-abortion care (PAC) activities allowed?

Yes. Protecting Life in Global Health Assistance *does not prohibit* foreign NGOs from treating injuries or illnesses caused by illegal or legal abortions (i.e., post-abortion care), such as emergency treatment for complications from spontaneous or induced abortion, with U.S. government or other funds.

20. Are healthcare providers permitted to provide counseling about and referrals for abortion, where they are required to do so under local law?

Yes. If a healthcare provider has an affirmative duty (*i.e.*, he or she is *required*) under local law to provide counseling about and referrals for abortion as a method of family planning, the policy does not prohibit compliance with such law. Staff should consult with their legal counsel before relying on this exception.

21. Are existing agreements for global health assistance that do not receive further U.S. government funds required to comply with the policy?

No. If no further U.S. government global health assistance is provided, then the recipient will not be asked to accept the Protecting Life in Global Health Assistance standard provision in its award. In this situation, funding previously obligated will not be affected as a result of the policy.

However, if additional U.S. government funds are added to an existing agreement providing global health assistance, then the recipient must accept the Protecting Life in Global Health Assistance standard provision in its award. Once the new provision is accepted by a foreign NGO, the foreign NGO will be expected to abide by the conditions in the provision on an organization-wide basis with respect to all of its funding.

22. Do organizations need to sign a separate certification that they agree to abide by Protecting Life in Global Health Assistance?

No. [For State/USAID: Organizations agree to the conditions of the policy by signing their award (or amendment to their award) with the standard provision included.] [For HHS: Organizations agree to the conditions of the policy by drawing down funds in their award.]

23. What happens if a foreign NGO with an existing award chooses not to agree to the Protecting Life in Global Health Assistance standard provision?

If a foreign NGO chooses not to agree to the Protecting Life in Global Health Assistance standard provision, no additional U.S. government global health assistance will be provided to that organization. In that case, funding previously obligated will not be affected as a result of the policy, and partners may spend down existing or previously obligated funding while the U.S. government department or agency works to reprogram future funding to other organizations. The awarding department or agency may need to take steps to terminate an award partially or fully, which could include working with the partner to develop a close-out plan that would allow for programmatic continuity and the orderly wind-down of activities. U.S. government staff should work closely with their cognizant Agreement/Grants Officer and legal counsel on this process.

For integrated awards that include global health assistance as well as other development assistance, the award could need a modification to indicate the recipient will submit a plan for closing out the global health assistance portion of the award and a corresponding adjustment of the award's work plan.

For subawards that include global health assistance, the recipient may not furnish any additional global health assistance to a foreign NGO subrecipient that does not agree to the standard provision.

24. How can I get a greater understanding of the policy and what is required?

For U.S. government and implementing partner staff, the most important way to learn about what the policy requires is to read the Protecting Life in Global Health Assistance standard provision. In addition, U.S. government departments and agencies are engaging staff and partners about the policy and its implementing procedures to ensure compliance. This effort will include the training of staff and partners and the periodic monitoring of compliance. A course, entitled, "Protecting Life in Global Health Assistance and

August 27, 2018

Statutory Abortion Restrictions,” is publicly available through the USAID-supported Global Health E-Learning Center:

<https://www.globalhealthlearning.org/course/protecting-life-global-health-assistance-and-statutory>.

25. Is research included under Protecting Life in Global Health Assistance?

The policy covers implementation-science research, operational or programmatic research, surveys, needs assessments and related capacity-building conducted for the purpose of making improvements to global health programs funded by the U.S. government and implemented through a foreign NGO with a primary purpose and effect of benefiting a foreign country. The policy excludes basic research studies and *in vitro* studies that use human tissues. [Agency-specific clarification: USAID expects that the policy covers most, if not all, of USAID global health research.]

26. When the terms and conditions of a grant or cooperative agreement require approval of subawards, or when the approval of subawards is required by 2 CFR 200.308(c)(vi), (or, for HHS, 45 CFR 75.308(c)(vi)), what due diligence must the recipient perform on subrecipients pursuant to paragraph I(7) of the Protecting Life in Global Health Assistance standard provision before furnishing health assistance under the subaward?

Every recipient of U.S. government global health assistance should have in place a process for conducting due diligence on its applicable subrecipients. The awarding U.S. government department or agency may consider factors such as the following when considering whether a recipient has conducted adequate due diligence:

- (a) Whether the subrecipient has agreed to accept the Protecting Life in Global Health Assistance standard provision;

- (b) The quality of the subrecipient's management systems and ability to meet the requirements prescribed in the Protecting Life in Global Health Assistance standard provision; and
- (c) The subrecipient's ability to effectively implement statutory, regulatory, or other requirements imposed on it.

27. Does Protecting Life in Global Health Assistance provide for any exemptions?

Yes.

- Agreements with national and subnational Governments, public international organizations, and other multilateral entities in which sovereign nations participate are not subject to the requirements of Protecting Life in Global Health Assistance. For example, this includes funding to the Global Fund to Fight AIDS, Tuberculosis and Malaria; GAVI, the Vaccine Alliance; and United Nations organizations such as the Joint United Nations Programme on HIV/AIDS and the World Health Organization.
- In addition, the Protecting Life in Global Health Assistance policy excludes humanitarian assistance, including Department of State migration and refugee-assistance programs, USAID disaster and humanitarian-relief programs, and DoD disaster and humanitarian relief. Recipients should confer with their awarding agency to determine if this exemption applies.
- This policy does not limit foreign NGOs from using U.S. government or other funds to treat injuries or illnesses caused by illegal or legal abortions, such as emergency treatment for complications from spontaneous or induced abortion, with U.S. government or other funds, nor does it prohibit post-abortion care.
- Protecting Life in Global Health Assistance also does not apply with respect to cases of rape, incest, or endangerment of the life of the mother; as such, it does not prohibit

August 27, 2018

foreign NGOs from performing, or referring women for, the termination of pregnancies in cases of rape, incest, or endangerment of the life of the mother.

- There is also an exception for passive referrals. [See Question #18 for a definition of passive referral.]
- In consultation with the Secretary of HHS, the Secretary of State may authorize additional, case-by-case exemptions to the policy.

Monitoring

28. What kinds of steps might be taken to ensure compliance with Protecting Life in Global Health Assistance?

U.S. government departments and agencies are engaging funding recipients about Protecting Life in Global Health Assistance and developing procedures to ensure compliance with it, which includes the training of U.S. government staff and funding recipients and the periodic monitoring of compliance.

Six-Month Review

29. Why was the six-month review undertaken?

- On May 9, 2017, the Secretary of State, in coordination with the Secretary of HHS, approved the implementation plan for the Protecting Life in Global Health Assistance policy.
- The Department of State, working with USAID, DoD and HHS, committed to conduct a comprehensive review of the effectiveness and impact of the policy's application. The Department of State has worked closely with USAID, HHS, and DoD to implement the policy consistently, examine progress in carrying it out, and monitor its effects.

30. What are the recommendations of the six-month review?

- The review identifies several actions to provide further guidance regarding aspects of the Protecting Life in Global Health Assistance policy related to implementation, compliance and oversight. In particular, we will work to clarify certain aspects of the policy, and provide updated training and tools to implement it. In addition, we expect to conduct an additional review of the policy at the end of 2018. The full six-month review, including follow-on actions, is available at <https://www.state.gov/f/releases/other/278012.htm>, and at <https://www.usaid.gov/what-we-do/global-health/cross-cutting-areas/legislative-policy-requirements>.

31. What steps is the U.S. government taking to address the recommendations in the review? When will these steps be completed?

- First, affected departments and agencies will revise the standard provision included in awards to implement the policy. Further guidance for implementing partners will be forthcoming once that process is complete. Until that time, implementing partners that have agreed to the Protecting Life in Global Health Assistance standard provision remain subject to the terms of the provision in their award.
- In addition, affected departments and agencies will develop additional training and compliance tools to help facilitate the policy's implementation. These answers to FAQs are one action to address this recommendation.
- Lastly, the Department of State will lead the U.S. government's subsequent review of implementation of the policy in late 2018.

PEPFAR-Specific Questions

29. Is PEPFAR prepared to implement the Protecting Life in Global Health Assistance policy without any interruption in HIV/AIDS service provision?

August 27, 2018

PEPFAR is well-positioned to implement the new policy through U.S. government departments and agencies that implement PEPFAR.

PEPFAR's sizable partnership base will help it to maintain the provision of HIV/AIDS prevention, care and treatment services while the policy is implemented.

PEPFAR will have layered, intensive monitoring during the implementation of the policy to identify and minimize disruption in its provision of life-saving HIV prevention, care and treatment services.

30. How might implementation of Protecting Life in Global Health Assistance affect PEPFAR's DREAMS partnership, which focuses on adolescent girls and young women?

PEPFAR is well-positioned to implement the policy.

All foreign NGOs involved in the implementation of the DREAMS program will have the opportunity to receive global health assistance awards if they indicate their agreement to abide by the terms of the Protecting Life in Global Health Assistance policy by accepting the standard provision in their awards. U.S. government departments and agencies will reprogram to other organizations any funding they would have awarded to NGOs that do not agree to the conditions set on the acceptance of U.S. funding under the Protecting Life in Global Health Assistance policy.

PEPFAR will continue the routine collection of quarterly data on its programs, and will closely monitor these data for any impact of the policy on the DREAMS partnership.

USAID-Specific Questions:

31. Does the policy apply to Development Credit Authority agreements?

August 27, 2018

No, the expanded policy does not apply to Development Credit Authority agreements.

HHS Specific Information

HHS awarding agencies administer grants in accordance with HHS' Uniform Administrative Requirements, Cost Principles, and Audit Requirements, found at 45 CFR Part 75.