

Department of Health and Human Services  
Freedom of Information Officer  
Hubert H. Humphrey Building, Room 729H  
200 Independence Avenue SW  
Washington, DC 20201

Via electronic submission

April 3, 2018

**RE: FOIA Request – Fee Waiver and Expedition Requests Included**

To whom it may concern:

This is a request for expedited production of records under the Freedom of Information Act, 5 U.S.C. § 552, Department of Health and Human Services implementing regulations at 22 C.F.R. § 171 *et seq.*, and Attorney General Holder’s Memorandum for Heads of Executive Departments and Agencies, dated March 19, 2009.

This request is being made by the Global Justice Center (GJC), a 501(c)(3) non-profit human rights organization based in New York specializing in the global enforcement of international law rights guarantees.

**I. Definitions for this FOIA Request**

1. “MATERIALS”- For purposes of this request, the term “materials” includes but is not limited to any and all objects, emails, writings, meeting notes, minutes, notations on documents, calendar notation of meetings or phone calls, power point presentations, telephone logs, drawings, graphs, charts, tables, electronic or computerized data compilations, budgets, accountings, electronic or computerized documents, photographs, audiotapes, videotapes, transcripts, drafts, correspondence, notes, notes of oral communications, and non-identical copies, including but not limited to copies with notations. This includes legal department memos or meeting notes, and all materials received by HHS even if not generated by HHS, such as a memo or request for clarity from HHS, the White House, or awardees.
2. “AWARDS” - For purposes of this request, the term “awards” includes all HHS partnerships grants, contracts, partnership agreements, and cooperative agreements, with US Non-Governmental Organizations, Foreign Non-Governmental Organizations, Public International Organizations, and with Foreign Governments. “Awards” includes any modifications relating to the abortion restrictions described herein.

3. “ABORTION RESTRICTIONS ON FOREIGN ASSISTANCE”; “HELMS-RELATED RESTRICTIONS”; “MEXICO CITY POLICY-RELATED RESTRICTIONS”; “GLOBAL GAG RULE-RELATED RESTRICTIONS”- These terms are used interchangeably herein and refer to US abortion restrictions on foreign assistance, including the Helms Amendment to the Foreign Assistance Act, the Siljander Amendment, the Tihart Amendment, the Biden Amendment, the Kemp-Kasten Amendment, the Leahy Amendment and the “Protecting Life in Global Health Assistance” policy (also known as the Global Gag Rule or the Mexico City Policy) or any permutations of these restrictions as found in annual appropriations, federal legislation or HHS directives.

## II. Request for Materials

### A. Request for Portions of HHS Awards

We request information on all HHS emails, internal memos, contracts, grants and awards since May 15, 2017 that discuss or mention the six-month review of the “Protecting Life in Global Health Assistance” policy (PLGHA). This request includes materials regarding any grantees’ refusal to sign the policy.<sup>1</sup> See conditions limiting this request *supra*.

We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. However, to the extent that a response to this request would require HHS to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested. If the materials are too voluminous we will come to review them in person.

In the event you determine that materials contain information that falls within the statutory exemptions to mandatory disclosure, we request that such information be reviewed for possible discretionary disclosure. *See Chrysler Corp. v. Brown*, 441 U.S. 281, 293 (1979). We also request that, in accordance with 5 U.S.C. § 552(b), any and all reasonably segregable portions of otherwise exempt materials be produced. To the extent the request is denied, we expect to receive notice in writing, including a description of the information withheld, the reasons for denial, and any exemptions relied upon. *See* 22 C.F.R. § 212.36(a).

## III. FEE WAIVER REQUEST

Please waive any applicable fees. GJC is a non-profit organization, with no commercial interest in documents requested and the information contained in the requested contracts are of significant public interest and will contribute significantly to public understanding of government operations and activities. As a human rights non-profit organization, GJC is primarily engaged in disseminating information. The public has an urgent need for information pertaining to the Helms Amendment, Global Gag Rule and general United States abortion policy as indicated in the requested materials—particularly in light of the fact that such policies may place the U.S. in violation of several international laws, norms and regimes including the Geneva Conventions and the Convention against Torture.

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<sup>1</sup> *See* U.S. Department of State, *Protecting Life in Global Health Assistance Six-Month Review*, February 6, 2018, available at <https://www.state.gov/f/releases/other/278012.htm>

Furthermore, for the purposes of a fee waiver determination, GJC can be considered a representative of the new media because it is “an entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes the work to an audience.” A key component of GJC’s work is to gather, analyze and distribute information that is of interest to the public through legal and advocacy publications which are made available to the public through our website, blog, Twitter, and Facebook and that are distributed through electronic newsletters.

#### **IV. EXPEDITION REQUEST**

Please provide expedited processing of this request. The materials requested are needed urgently, as they pertain to an issue under discussion in the public domain and within the administration and are critical to GJC’s “August 12<sup>th</sup> Campaign,” which challenges the U.S. government’s compliance with the Geneva Conventions and related international laws ensuring complete medical treatment for girls and women who are victims of rape and torture in armed conflicts. The public has an urgent need for information pertaining to United States abortion restrictions and policy as indicated in the requested contracts. Further, the issue of the application of the abortion restrictions on conflict-related foreign aid is one under active consideration by the U.S. government and materially affects countless Americans, humanitarian service providers and victims of war. In addition, HHS previously granted expedited processing to another FOIA request of GJC’s (2017-00983-FOIA-OS) that deals with U.S. abortion restrictions on foreign aid.

This request pertains to the direct impact of the United States’ restriction of medical services provided to women and girls around the world, which is an issue of utmost importance and certainly constitutes a threat to “the life or physical safety of an individual.” The U.S. government has laudably made ending the use of rape as a weapon of war a major focus of U.S. foreign policy. It has also repeatedly documented that the trauma, mortality, and morbidity of women rape victims is exacerbated for those who become pregnant from war rape. The Geneva Conventions’ guarantee of full medical care for these war victims necessarily includes access to abortions. Ensuring the availability of abortion for these torture/war crimes victims is a matter of saving lives.

Further, since the reinstatement of the Mexico City Policy and its expansion through the “Protecting Life in Global Health Assistance” policy in 2017, numerous [reports](#) have been published detailing the [devastating impact](#) that this expanded policy will have on medical care [received by millions around the world](#) – not only [sexual and reproductive medical care](#), but also programs to treat diseases [like HIV/AIDS, malaria, and tuberculosis](#). There is a clear demand for greater information on changes to U.S. abortion policy, and the documents we have requested through the FOIA process will contribute significantly to the public’s understanding of the full impact of the expanded Policy in conjunction with existing U.S. abortion restrictions on foreign aid.

GJC, as thought-leaders and advocacy lawyers, intends to use the requested information to evaluate new changes to U.S. policy, inform the public of these changes, and determine the how international law resolves potential issues accompanying the shift. Since 2010 GJC has been a reliable source of information and legal analysis concerning the U.S.’s foreign policy positions concerning reproductive health. With the information gathered as part of this request, we will issue press releases, analyses, explanatory memos and other media that will contribute significantly to public understanding of

government operations and activities and utilize this information in our advocacy efforts around this issue.

We look forward to a determination on this request from you within 10 (ten) working days pursuant to 22 C.F.R. § 212.34(a) and to receive responsive materials within 20 days.

Thank you for your prompt attention to this request. Please call me at (212) 725-6530 ext. 203 if you have any questions or wish to obtain further information about the nature of the documents in which we are interested. The records should be sent to Akila Radhakrishnan, Global Justice Center, 11 Hanover Square, 6th Floor, New York, NY 10005.

Sincerely,

A handwritten signature in black ink, appearing to read "Akila R.", with a stylized flourish at the end.

Akila Radhakrishnan  
President (Acting), Global Justice Center