

Office of Information Programs and Services
A/GIS/IPS/RL
U.S. Department of State
Washington, D.C. 20522-8100

Via Mail and Fax

February 27, 2012

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, State Department 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. EXPEDITION REQUEST

GJC requests expedited processing of this FOIA request as permitted under 22 C.F.R. § 171.12 (b). 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 12th 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. Furthermore, GJC has been granted expedited processing on our pending FOIA Request #F-00185-11 at USAID (enclosed) for the same category of materials requested herein.

This request pertains specifically to the services provided to rape victims in situations of conflict – an issue of utmost importance and immediate concern. There are daily news reports regarding the use of sexual violence in conflict, and the matter is currently on the agenda of the Security Council. In fact, the U.S. government, as a member of the U.N., has pledged under Resolution 180 to support the provision of assistance to survivors of sexual violence, which is implicated by U.S. abortion restrictions on foreign assistance.

The GJC is the major source of information and legal analyses of U.S. government policy in this Campaign, and GJC has been joined by over 3,000 U.S. and global legal and human rights organizations and been the subject of media coverage. The materials are also needed in conjunction with GJC's work in monitoring the implementation of President Obama's Executive Order of December 19, 2011, on Women, Peace, and Security. Further, the issue of the applications of the abortion restrictions on conflict-related humanitarian aid is one under active

consideration by the U.S. government.

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 - often life-saving - abortion for these torture/war crimes victims is a matter of saving lives. With that in mind, we request that the documents be expedited, as your FOIA provisions indicate that expedited processing will be provided if "failure to obtain requested information on an expedited basis could reasonably be expected to: pose an imminent threat to the life or physical safety of an individual; impair substantial due process rights; or harm substantial humanitarian interests." If you need an affidavit of urgency, please call me.

II. FEE WAIVER REQUEST

GJC also requests a fee waiver for the present request under 22 C.F.R. § 171.17, as the GJC has no commercial interest in the matter and the information requested is of paramount importance to the public.

The documents requested in this FOIA request pertain directly to the activities of the State Department. State is the agency directly responsible for administering and implementing U.S. abortion restrictions on foreign assistance. Furthermore, the documents requested are not currently in the public domain. GJC has actively been engaged in researching these restrictions for over two years and has yet to find any of the requested materials despite extensive internet and library searches. In fact, unlike USAID, State department provisions and guidelines for implementing U.S. abortion restrictions are not available online.

Additionally, the information requested is of significant importance to the GJC, an international human rights NGO actively working in the field of foreign affairs and international law. The information and materials requested are directly related to a significant GJC project that often touches on the work of the State Department. For example, as a part of this project on the implementation of U.S. abortion restrictions, the GJC submitted a shadow report on the matter to the Human Rights Council for the Universal Periodic Review of the U.S., which was within the purview of the State Department.

Further, the information we seek is in the public interest, and dissemination of the information obtained is a key component of the GJC's current programmatic work on the issue. The information sought is essential to GJC's work and will be incorporated into advocacy efforts and publications, which include briefs, white papers, and legal updates disseminated to the public, interested partners, and the media.

Finally, GJC has no commercial interest that would be furthered by the disclosure of the information. GJC is a non-profit engaged in the use and development of international law to embed gender equality globally and is not engaged in any commercial activity. Further, GJC has been granted a fee waiver in its pending FOIA request at USAID for the same type of documents requested herein. Fees should be waived given that GJC is the primary organization providing the U.S. public with information on this issue and that GJC has no commercial interests.

III. 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, PowerPoint 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 State even if not generated by State, such as a memo or request for clarity from USAID, White House, or awardees.
2. “AWARDS” - For purposes of this request, the term “awards” includes all State Department or State Department partnerships’ grants, contracts, partnership agreements, and cooperative agreements with U.S. Non-Governmental Organizations, Foreign Non-Governmental Organizations, Public International Organizations, and Foreign Governments. “Awards” include any modifications relating to the abortion prohibitions.
3. “ABORTION PROHIBITIONS ON FOREIGN ASSISTANCE OR HELMS-RELATED RESTRICTIONS”- These terms are used interchangeably herein and refer to U.S. abortion restrictions on foreign assistance, including the Helms Amendment to the Foreign Assistance Act, the Siljander Amendment, the Tiahrt Amendment, the Biden Amendment, the Kemp-Kasten Amendment, and the Leahy Amendment or any permutations of these restrictions as found in annual appropriations or federal legislation.

IV. Request for Materials

1. Internal State Department Materials

Please provide the following materials from January 1, 2008 until present, unless so noted:

1. All materials pertaining to the creation of standard clauses imposing abortion restrictions to be included in State Department awards;
2. All materials between the United Nations High Commissioner for Refugees and PRM regarding the abortion prohibitions;
3. All materials on enforcement of subcontracting requirements relating to abortion prohibitions and enforcement;
4. All materials relating to State Grant Officers and the abortion restrictions, including directives, reports on award changes, or modifications of any abortion conditions on awards;
5. All materials relating to recipient/awardees seeking advice of Grant Officers or of State on terms and conditions regarding abortion;
6. All materials relating to guidance and enforcement on the Siljander Amendment, including all materials produced in the investigation leading up to the GAO October 2011

report on Kenya constitution entitled, *Foreign Assistance: Clearer Guidance Needed on Compliance Overseas with Legislation Prohibiting Abortion-Related Lobbying*;

7. All materials relating to requests to the office of legal advisors reviewing proposed activities;
8. Mandatory provisions based on Award type;
9. All materials relating to State efforts to broaden awareness of the Siljander Amendment as outlined in the GAO report, *Foreign Assistance: Clearer Guidance Needed on Compliance Overseas with Legislation Prohibiting Abortion-Related Lobbying*, including any guidelines;
10. All communications between State and awardees and/or potential awardees relating to the abortion prohibitions, including email communications and notes regarding telephone conversations;
11. All materials relating to the interpretation and implementation of abortion prohibitions required by State, Foreign Operations Appropriations;
12. All materials regarding the abortion prohibitions and the UN agencies;
13. All materials relating to the abortion prohibitions (other than the awards) and ICRC;
14. All materials relating to the Global Justice Center and/or the August 12th Campaign and/or letters to President Obama about the Helms Amendment-related restrictions and rights of rape victims;
15. All materials relating to the 2010 section of “Goal 6: Population” report of the State Department which states that it intended to have a “9% increase from FY2005 in population-related resolutions negotiated that contain language in keeping with USG population policy.”

2. Award and Grants Materials

We limit our request for the State awards listed below to those portions of the awards that are publicly disclosed, the purpose and scope of the award, implementing partners, and the portion of the award (or modification) containing abortion prohibitory language. We do not expect this would amount to more than 8-10 pages per award requested. There is no need to submit any request for a contract/cooperative agreement to any submitter, as we are uninterested in any information that could at all be deemed confidential or relating to any competitive advantage. We would be happy to go to the State Department in person to review this material if that would make this process less burdensome and faster. Las

1. Award to UNHCR for Protection, Refugee Return and Reintegration, IDP and Refugee Support in The Democratic Republic of the Congo (DRC) in Equateur, Katanga, North Kivu, Orientale, and South Kivu Provinces. Funding: \$9,000,000.
2. Award to International Committee of the Red Cross (ICRC) for Protection, ERMS, Health, Logistics in the DRC in Equateur, Katanga, North Kivu, Orientale, and South Kivu Provinces. Funding: \$13,800,000.
3. Award to the Center for Victims of Torture for Mental Health Assistance and Gender-Based Violence response and referral programs in the DRC in Northern Katanga Province. Funding: \$897,285 in FY 2008; \$1,100,000 in FY 2009; \$1,008,391 in FY2010 (activities ongoing through September 2011).
4. Award to ICRC. for SGBV prevention and response through medical, psychosocial and legal support in the DRC. Funding: \$13,000,000 in FY 2010 (activities ongoing)
5. Award to the United Nations High Commissioner for Human Rights for activities in Eastern DRC. Funding: \$2,000,000 in FY2010 (activities ongoing).

6. Award to Norwegian Refugee Council for Primary Education in Areas of Refugee Return, including GBV prevention in the DRC in South Kivu. Funding: \$696,006 in FY2010 (activities ongoing through September 2011).
7. Award to American Bar Association (ABA) to stem Gender-Based Violence and End Impunity in the DRC in the North Kivu Province. Funding: \$1,000,000 (2009 – September 30, 2011).
8. Award to ABA for Developing Local Capacity to Investigate Cases of Mass Violence and Rape in the DRC in North Kivu Province. Funding: \$1,309,439 (September 2009 – September 2011).
9. Award to International Medical Corps (IMC) for Health, Nutrition, and WASH in Jonglei, Sudan. Funding: \$1,900,000 in FY 2011.
10. Award to International Medical Corps (IMC) in 2009 to support the Akobo County Hospital in Akobo County in southern Sudan.
11. Award to International Committee of the Red Cross (ICRC) Sudan Emergency Appeal for multi-sectoral protection and assistance in Sudan and South Sudan. Funding: \$18,100,000.
12. Award to Rama-Levina Foundation in DRC in South Kivu. Funding: \$99,000 (September 2012 – February 2012)
13. Award to Women for Women International for empowering women survivors of war in DRC in South Kivu. Funding: \$411,871 (January 2011 – January 2012).
14. Award or awards dispensing the \$3 million state foreign appropriation in FY2010 for the U.N. Trust Fund to fund and promote U.N. actions on violence against women.
15. Award of \$1.7 million to U.N., including for the office of Margot Wallström, the U.N. special representative on sexual violence in conflict zones, 2011.

NB: We were unable to locate specific contract numbers for these awards in the public domain.

We look forward to a determination on this request from you within 10 working days, pursuant to 5 U.S.C. 522. Thank you for your prompt attention to this request.

Please call Akila Radhakrishnan at (212) 725-6530 ext. 211 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 Janet Benshoof, Global Justice Center, 725 Seventh Ave, Suite 1502, New York, NY 10001.

Sincerely,

Janet Benshoof

Enclosures:

1. USAID reponse letter granting expedited processing