

S. Lankford, FOIA Team Leader
Information & Records Division
Office of Administrative Services
United States Agency for International Development
Room 2.07C, RRB
Washington, D.C. 20523-2701

Via Mail and Fax

September 23, 2014

RE: FOIA Request - Fee Waiver and Expedition Requests Included

Dear Ms. Lankford:

This is a request for expedited production of records under the Freedom of Information Act, 5 U.S.C. § 552, USAID, implementing regulations at C.F.R. § 212.1 *et seq.*, and Attorney General Holder's Memorandum for Heads of Executive Department and Agencies on 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.

The USAID documents requested in this letter, with specificity, are critical to GJC's ability to advise and inform the American public and policy leaders about an ongoing government discussion on the legality of State/USAID's implementation of the Helms-related abortion restrictions on all State, Foreign Operations and Appropriations. Given both the exigency of this matter and the fact they consist solely of agency-generated material, we urge that USAID provide them forthwith.

Further, the USAID awards requested in Part II of this letter are requested only in part, limited to the publicly disclosed portions of the contracts, the purpose and scope of the award, implementing partners, USAID standard clause portions and the portion of the award (or modification) containing abortion prohibitory language. We anticipate that only 8-12 pages need be provided per award. There is no need to submit any request for a contract to any submitter as we seek nothing that could be remotely deemed to be "confidential commercial information."

We request both a fee waiver and expedition as detailed herein.

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 State even if not generated by USAID, such as a memo or request for clarity from the State Department, White House, or awardees.

Global Justice Center

275 Seventh Avenue, Suite 1502 • New York, NY 10001 • P 212.725.6530 • F 212.725.6536

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 US Non-Governmental Organizations, Foreign Non-Governmental Organizations, Public International Organizations, and with Foreign Governments. “Awards” includes 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 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-Katsen Amendment and the Leahy Amendment or any permutations of these restrictions as found in annual appropriations, federal legislation or USAID directives.

II. Request for Materials

A. Request for Portions of USAID Awards

We request information pertaining to USAID humanitarian assistance awards to Iraq and neighboring countries in FY 2014 (listed below).¹ See conditions limiting this request *supra*.

1. Award to **Implementing Partners** for Health, Humanitarian Coordination and Information Management, Logistics and Relief Commodities, Protection, Shelter and Settlements, Water, Sanitation, and Hygiene (WASH) in As Sulaymaniyah, Diyala, Dohuk, Erbil, Kirkuk, Ninewa, and Salah ad-Din, Iraq. *Funding*: \$10,734,671 (FY 2014);
2. Award to **International Organization for Migration** for Humanitarian Coordination and Information Management, Logistics and Relief Commodities, Protection in Iraq. *Funding*: \$500,000 (FY 2014);
3. Award to **United Nations Children’s Fund (UNICEF)** for Logistics and Relief Commodities; Protection; WASH in Northern Iraq. *Funding*: \$1,000,000 (FY 2014);
4. Award to **USAID/OFDA Commodity Airlifts** for Logistics and Relief Commodities in Northern Iraq. *Funding*: \$360,770 (FY 2014).

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 USAID 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 USAID to review them.

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).

¹ See USAID, *Syria – Complex Emergency: Fact Sheet # 15, Fiscal Year (FY) 2013*, May 9, 2013, available at http://www.usaid.gov/sites/default/files/documents/1866/05.09.13%20-%20USG%20Syria%20Complex%20Emergency%20Fact%20Sheet%20_15.pdf.

III. FEE WAIVER REQUEST

Please waive any applicable fees, as was done in with respect to GJC's FOIA requests #F-00185-11 and #F-00152-12. 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.

Furthermore, for the purposes of a fee waiver determination, the GJC can be considered to be 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 the 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 which concerns the same matters on which such expedition was granted with respect to FOIA request #F-00185-11 and #F-00152-12 a matter of urgency, a matter of life and death for USAID beneficiaries who are victims of war rape.

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. **This request pertains to the services provided to rape victims among Iraqi internally displaced and refugees in the context of the ongoing armed conflict in Iraq**, which is an issue of utmost importance and immediate concern.² There are frequent news reports regarding the use of sexual violence against populations affected by this conflict, and the matter of sexual violence in general 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 Security Council Resolutions 2106 and 2122 to provide non-discriminatory and comprehensive health services to survivors of sexual violence, which is undermined by U.S. abortion restrictions on foreign assistance.

GJC is the major source of information and legal analyses of U.S. government policy in the August 12th Campaign, and GJC has been joined by over 3,000 U.S. and global legal and human rights organizations as well as 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 orders on Women, Peace, and Security (December 19, 2011) and Preventing and Responding to Violence against Women and Girls Globally (August 10, 2012). Further, the issue of the application of the abortion restrictions on conflict-related humanitarian aid is one under active consideration by the U.S. government.

As a human rights nonprofit organization, the GJC is primarily engaged in disseminating information. The public has an urgent need for information pertaining to the Helms Amendment and United States abortion policy as indicated in the requested contracts.

² See USAID, *Iraq – Complex Emergency: Fact Sheet # 5, Fiscal Year (FY) 2014*, September 11, 2014, available at http://www.usaid.gov/sites/default/files/documents/1866/iraq_ce_fs05_09-11-2014.pdf.

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 Akila Radhakrishnan 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 Janet Benshoof, Global Justice Center, 11 Hanover Square, 6th Floor, New York, NY 10005.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Benshoof". The signature is fluid and cursive, with the first name "Janet" being larger and more prominent than the last name "Benshoof".

Janet Benshoof
President, Global Justice Center