

## **USAID's Partner Vetting System**

The Partner Vetting System (PVS) is a pilot program created to vet individuals in nongovernmental organizations (NGOs) and for-profit entities that apply for United States Agency for International Development (USAID) contracts and grants, to ensure that USAID-funded activities are not inadvertently providing support to entities associated with terrorism. Under the PVS pilot program, the U.S. government requires many grant applicants to submit detailed personal information on key employees and subcontractors to USAID for comparison with intelligence databases.

The PVS pilot program operates pursuant to two rules—one for acquisitions and another for assistance. The acquisitions rule (48 CFR Parts 704, 713-16, 744 and 752), part of USAID's procurement regulation, and the assistance rule (2 CFR Part 701) are similar. They require vetting of key personnel (both U.S. and non-U.S. persons) of potential awardees and sub-awardees. The PVS program applies to non-federal entities, nonprofit organizations, for-profit entities and foreign organizations that apply for USAID contracts, grants, cooperative agreements or other funding.

The pilot, implemented by USAID and the U.S. State Department, is operated in Guatemala, Kenya, Lebanon, the Philippines and Ukraine. However, USAID's authority is not limited to these five countries. The agency has the legal authority to conduct vetting outside the pilot program “where a risk assessment indicates that vetting is an appropriate higher-level safeguard that is needed to protect U.S. taxpayer resources in high-risk environments like Afghanistan,” according to the most recent PVS final rule (80 FR 36693, June 26, 2015).

USAID applies a risk-based assessment to determine if a particular award is subject to vetting. This involves a number of factors, including the operating environment, nature of the program or activity, geographic locations of the proposed program or activity, and the amount of the award.

At the same time, the U.S. State Department runs a parallel program known as Risk Analysis and Management (RAM). Direct recipients of State Department funds under Bureau of Population, Refugees and Migration solicitations in the same five pilot countries must undergo pre-award vetting. The State Department uses USAID's PVS database to collect and store information on partner organizations and their key individuals, although the RAM information is accessible only to State Department employees. Few additional details on RAM are available.

### **Vetting Process**

If vetting is required, the applicant must submit the Partner Information Form (USAID Form 500-13) for all “key individuals,” including “key personnel,” regardless of whether they are employees of the applicant or sub-awardees. The organization applying for an award subject to vetting is responsible for selecting the key individuals to be vetted and verifying that the Partner Information Form for each individual is accurate and complete. At the option of the prime awardee, USAID will conduct direct vetting with a potential sub-awardee, although the prime awardee is responsible for verifying the accuracy of all information submitted.

A “key individual” is defined as the principal officer of the organization’s governing body (such as chairman or vice-chairman of the board of directors), the principal officer and deputy officer of the organization (such as the executive director), the program manager or chief of party for the U.S. government-financed program, and any other person with significant responsibilities for administration of the relevant activities or resources.

Selection of a successful grant applicant proceeds separately from vetting. For those awards that USAID has determined are subject to vetting, awards are given only to those applicants determined to be eligible after vetting is completed. Award recipients must re-submit the Partner Information Form within 15 days of a change in key individuals, sub-recipients or contractors.

### **Denial and Reconsideration**

If there is a “match” between information provided by an applicant and information contained in non-public databases or other sources, USAID will determine whether the match is valid or a false positive. If a match is valid, and any key individual is found ineligible, the organization is ineligible to receive an award. If this happens, the organization may submit a reconsideration request within seven days to USAID and may choose to remove and/or replace a key individual when reapplying. USAID must give a reason for denial of an award, with a reasonable amount of detail given the nature, source and sensitivity of the information. Within seven days of receiving a request for reconsideration, USAID will determine whether the applicant’s additional information merits a revised decision.

When an ineligible determination is made by USAID, the agency may consult with other U.S. government agencies and share terrorism information in order to update existing records. The agency states that individuals and organizations deemed ineligible will not be “blacklisted,” or barred, from seeking other U.S. grants or contracts. Organizations and individuals are vetted based on a specific contract or grant to be considered for an award and vetting rules do not prevent the organization from bidding on other solicitations. This appears to contradict the statement that information will be shared with other government agencies, who will then use it to update their databases.

### **Humanitarian Crises**

In situations where humanitarian assistance is urgently needed, USAID does not intend to require pre-award vetting, so that delivery of aid can be made more quickly. The June 2015 final rule states that “USAID reserves the right to conduct post-award vetting in such situations,” adding that vetting would take place once the humanitarian situation has stabilized. The regulations do not explain how urgency would be determined.

### **Pilot Conclusion and Changes**

The Fiscal Year 2012 Appropriations Act requires a joint USAID/State report to Congress following completion of the pilot that evaluates the estimated timeline and criteria for evaluating PVS for expansion. That is set to occur in 2016. In addition, report language in the Omnibus Budget for FY 2016 contains language that would, prior to the completion of the evaluation and consultation with the Committees on Appropriations, prohibit USAID and State from implementing similar vetting systems outside the pilot countries unless required to respond to existing security threats. The report language also requires State and USAID to ensure that all individuals vetted through the pilot are able to obtain information on how data is used by the U.S. government. The report following completion of the pilot must include recommendations for standardizing and streamlining vetting processes; consideration of

exemptions for humanitarian and democracy assistance; analysis of privacy and data protection concerns, a description of consultations with governmental and nongovernmental stakeholders affected by the pilot program; and responses to concerns raised during these consultations.

### **Criticism**

Numerous NGOs oppose the PVS pilot and have recommended that the Department of State and USAID consider alternative approaches to vetting its partners.

### **Intelligence Gathering and Aid Worker Safety**

Perhaps the biggest concern surrounding PVS is that NGOs will be perceived as intelligence arms of the U.S. government, increasing the security risk for partner employees and violating the neutrality of NGOs. As such, PVS can discourage international and local partners from working with U.S. NGOs and deter U.S. citizens and foreign nationals from working for U.S.-funded programs.

The perception that grantees are acting as agents of the U.S. government undermines the basic principles of neutrality and trust upon which NGOs rely to preserve the safety of their staff in dangerous regions or in politically sensitive environments and could lead to retaliation against aid workers by terrorist organizations, militias and foreign governments. Rather than “enhancing” security, requiring NGOs to collect and submit personal information to the U.S. government increases the risk of violence against aid workers.

InterAction, the largest alliance of U.S.-based humanitarian and international development NGOs, has said that PVS “could lead communities to suspect complicity between intelligence and U.S. NGOs, inflame conspiracy theories, and shatter trust fostered between NGOs and local partners.”

In 2012, the U.S. State Department admitted there can be no guarantee that collecting this data will not create suspicion and hostility toward NGOs. “[State] cannot, of course, control the perceptions of other parties about U.S. government activities and must acknowledge the possibility of such a view; however, those organizations relying on U.S. government funding for their operations already face such suspicions among hostile parties.” This statement demonstrates a disturbing lack of understanding of the independent nature and, more often than not, dangerous working environment of NGOs by USAID.

### **Concerns with Government Lists**

The U.S. government maintains many lists and databases, all with different standards for listing people and how the information is intended to be used. According to the ACLU, the databases used for vetting “raise serious due process concerns....in light of the fact that the lists are error-filled and unreliable, with many false positives, and there is no effective means for challenging the fact that one is on the list.”

ACLU research has uncovered numerous instances where people have been put into terrorism-related databases because of activities supporting human rights, the environment, peace and other causes.

### **Processing Delays and Undue Burden on Applicants**

For years, NGOs have voiced concerns that State and USAID underestimate the bureaucratic red tape, increase in costs, and other burdens PVS will impose on their humanitarian and development activities around the world. PVS also will discourage small NGOs from applying for grants because they lack the necessary staff and resources to comply.

### **Better Approaches to Vetting**

The NGO sector has pooled its expertise on numerous occasions to develop standards and programs that protect the integrity of their operations. In addition to careful planning and implementation practices, and thorough documentation of financial transactions, a principle shared among these approaches is an emphasis on strong ties and relationships in the communities where programs operate.

For grantmakers, it is called “Know Your Grantee.” For operating charities, the same principle applies. Frequent site visits, research on the local community and maintenance of long term relationships with key local contacts provide in-depth knowledge about the people running local organizations and their place in the community. As Evan Elliott of InterAction stated at a March 2009 panel, “It’s almost silly to think that an FBI analyst here in the United States, sitting at a computer looking at a list, is going to be more effective in screening a potential employee than an NGO would be that has years of experience working in a particular community.”

### **Conclusion**

The Partner Vetting System, as conceived and designed by the Department of State USAID, is built on flawed assumptions about how effective vetting is conducted. The agencies have pursued a strategy that relies on secret government databases rather than on-the-ground experience and personal relationships developed over time. It fails to take advantage of the experience and expertise of the NGO sector. The narrow focus on intelligence databases fails to consider how USAID resources are actually used. Finally, it ignores the universal warnings from the NGO sector that data gathering for PVS will create a perception that NGOs are arms of the U.S. government. This creates safety hazards for aid workers and undermines program effectiveness.

U.S. nonprofits strongly support smart and effective due diligence and vetting procedures to make sure their assets are used exclusively for charitable purposes and are not diverted to terrorism or any other illegal use. To make this happen, USAID must engage in good faith collaboration with the NGO sector to develop a vetting system that is effective and workable.

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The Charity & Security Network was launched in November 2008 by charities, grantmakers and advocacy groups to promote security policies that protect civil society and to address barriers counterterrorism measures create for legitimate charitable, development, human rights and conflict resolution work.