



September 27, 2013

Mr. Michael Gushue, M/OAA/P
U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
Washington, DC 20523

Submitted via e-mail to: M.OAA.RuleMaking@usaid.gov; mgushue@usaid.gov

RE: Comments in Response to United States Agency for International Development Notice of Proposed Rulemaking: "Partner Vetting in USAID Assistance," 78 Fed. Reg. 53375 (Aug. 29, 2013) RIN 0412-AA71

Dear Mr. Gushue:

Oxfam America, Inc. submits this letter in response to your request for comments regarding the implementation of the Partner Vetting System (PVS) pilot program for U.S. Agency for International Development (USAID) assistance. USAID has sought comments in order to "minimize the impact of PVS on the Agency's programs and recipients while still protecting against the possibility that USAID funds could benefit terrorist groups." We believe it is both necessary and practical to achieve these twin aims through a thoughtful, risk-based approach to preventing USAID funds from falling into the hands of terrorists. We are concerned that, as proposed, PVS could have a significant negative impact on aid effectiveness.

Oxfam America is a global organization working to right the wrongs of poverty, hunger and injustice. We save lives, develop long-term solutions to poverty, and campaign for social change. As one of 17 members of the international Oxfam confederation, we work with people in more than 90 countries to create lasting solutions to these challenges. While Oxfam America does not accept U.S. government funds, we carry out development and humanitarian programs in partnership with local and national non-governmental organizations (NGOs), many of which are also recipients of USAID assistance either directly or through other USAID contractors. Therefore, we are in a position to comment on the rule's impact on aid effectiveness and aid beneficiaries.

We believe that, in order to meet its stated goals, USAID should (1) specify the pilot countries and time frame for the pilot program; and (2) articulate clear, measurable criteria by which to evaluate the PVS pilot program, with a focus on whether PVS would diminish the effectiveness of local and national NGOs in developing countries or discourage them from partnering with USAID. We discuss each recommendation in turn.

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1. USAID should articulate the geographic and time limitations of the PVS pilot program, as well as clear, measurable criteria by which to evaluate it.

The summary and background published in the Federal Register Notice referenced above discusses a pilot program for PVS; however, the proposed amendment to 22 C.F.R. Part 226 does not include any mention of a pilot program. The authorizing statute for the proposed rule specifically mandates the establishment of a pilot program in five countries and requires that the pilot program be evaluated by the agency and Congress before PVS may be expanded.¹ USAID should revise the proposed rule by specifically articulating the geographic and time limitations of the pilot program to comport with the relevant statutory requirements. The rule should specifically identify the five countries in which PVS will be put into effect and set a time period for the pilot, at the end of which the program will be assessed.

Naturally, the pilot program should be assessed according to criteria set and publicized before the program begins. Failing to publicize criteria before the beginning of the pilot program – or worse, failing to do so before its conclusion – would damage the integrity of the program. Indeed, it would further deepen the impression that USAID intends to implement PVS according to its original vision irrespective of comments and findings during the pilot program.

2. USAID should ensure that PVS does not diminish local and national NGOs' effectiveness or discourage such NGOs from partnering with USAID.

Oxfam has welcomed USAID Forward, and its Local Solutions agenda in particular. Through Local Solutions, USAID aims to increase funding channeled through developing country governments, NGOs and businesses to 30% of its global funds by the end of Fiscal Year 2015.² At the outset of USAID Forward, Oxfam conducted a survey of 200 government and civil society representatives in developing countries. Their message was clear: awarding assistance to local institutions builds the capacity of local communities and is central to the ability of foreign aid to strengthen the government-citizen compact in developing countries.³ This approach also reflects the U.S. government commitment to the Principles of Good Humanitarian Donorship.⁴ As Local Solutions has moved ahead, the results have been encouraging. In a recent survey of developing country practitioners, 83% of respondents said that they view the United States as a better donor than it was 4-5 years ago, in large part because they see more opportunities for local leaders to build partnerships with the U.S. government.⁵ Indeed, the most critical respondents focused on the slow pace of reform and urged more direct U.S. government interaction with local and national NGOs.

¹ See 2012 Appropriations Act § 7034(i), Pub. L. No. 112-74 (Dec. 23, 2011); 2010 Appropriations Act § 7034(o), Pub. L. No. 111-117 (Dec. 16, 2009).

² "Building Local Sustainability and Partnerships." <https://usaid.gov/results-and-data/progress-data/usaid-forward/building-local-sustainability-and-partnerships>.

³ *Capacity: Helping Countries Lead* (2010). Oxfam America. Available at <http://www.oxfamamerica.org/publications/capacity-helping-countries-lead-1>.

⁴ "Principle 8: Strengthen the capacity of affected countries and local communities to prevent, prepare for, mitigate and respond to humanitarian crises, with the goal of ensuring that governments and local communities are better able to meet their responsibilities and co-ordinate effectively with humanitarian partners." Available at <http://www.goodhumanitarianandonorship.org/gns/principles-good-practice-ghd/overview.aspx>.

⁵ *Quiet Renaissance: How Reforms are Making America a Better Partner in the Fight Against Poverty*. Oxfam America. Publication forthcoming.

We are concerned that PVS could deter local and national institutions from applying for USAID assistance awards. Such institutions could view PVS as an undue intrusion into the personal lives of their professional staff; they could refuse to work with USAID either on principle or in order to avoid staff attrition. Additionally, organizations could conclude that PVS represents an undue politicization of aid and, in conflict or disaster settings, a violation of humanitarian principles.

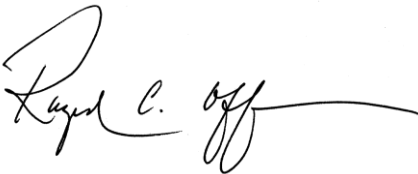
Even if PVS does not affect the level of funding channeled through local and national NGOs, it could still result in actual attrition. The design and implementation of PVS should take into account the reality that the same highly trained professionals on whom these NGOs depend to carry out USAID projects may prefer to pursue other opportunities than to submit detailed personal information to the U.S. government. The fear of government intrusion is not a marginal concern, even within the United States. In regions where the US government is engaged in or supportive of military and counterterror operations, this fear is even more pronounced. The firewalls between USAID and intelligence personnel built into the design of PVS may ultimately matter less to local aid workers than their fear that sharing their personal information with the U.S. government may ultimately lead to abuse, potentially by their own governments. Such local or national NGO attrition would significantly undermine aid effectiveness and the USAID Forward agenda.

Thus, among other criteria, the PVS pilot program must be assessed according to a.) its effect on the number and quality of local and national NGO bids for direct assistance awards and sub-contracts in pilot countries; b.) its effect on local and national NGO staff retention rates in pilot countries; and c.) its impact on the diversion of resources to individuals engaged in or associated with terrorism compared to existing due diligence programs.

A recent CAFOD report on funding for national NGOs in the humanitarian context highlighted the stark contrast between donor agencies' high-minded goals and the reality of their action: "Rhetorical international commitments to support local capacity are in tension with...risk management requirements stipulated by donors."⁶ It is critical that PVS not become another impediment to truly effective, locally-driven aid.

Oxfam America greatly appreciates the opportunity to comment on the PVS pilot program for USAID assistance. We would like to re-emphasize that we share USAID's twin aims of advancing aid effectiveness and preventing the diversion of funds to terrorists. We hope that PVS will be ultimately designed and evaluated on the basis of those aims.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Raymond C. Offenheiser", with a long horizontal flourish extending to the right.

Raymond C. Offenheiser
President
Oxfam America

⁶ *Funding at the Sharp End*, pp. 4 (2013). CAFOD. Available at <http://reliefweb.int/sites/reliefweb.int/files/resources/CAFOD%20national%20ngo%20financing%20study%20July%202013.pdf>.